

**TENNESSEE BOARD OF EXAMINERS IN PSYCHOLOGY
MEETING MINUTES**

DATE: June 6, 2019

TIME: 9:00 a.m., CDT

LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS PRESENT: Hugh D. Moore, Ph.D., Chair
Mark Fleming, Ph.D.
Mr. H.R. Anderson, SPE
Connie Mazza, SPE
Rebecca Joslin Staab, Ed.D., Ph.D.
Mickey Tonos, LBA

BOARD MEMBERS ABSENT: Jennifer Winfree, Consumer Member
J. Dale Alden, Ph.D.
Susan Douglas, Ph.D.
Todd Moore, Ph.D.

STAFF PRESENT: Teddy Wilkins, Unit Director
Lisa Williams, Board Administrator
Paetria Morgan, Office of General Counsel
John Tidwell, HRB Director

Dr. Hugh Moore, Chair, called the meeting to order at 9:02 a.m. A roll call was conducted and a quorum was present. Board staff introduced themselves.

Minutes

Upon review of the March 14, 2019 minutes, Dr. Staab made a motion, seconded by Dr. Fleming to approve the minutes as presented. The motion carried.

Applicant File Review

Dr. Kathryn Buck Pursell appeared before the board by phone due to inclement weather while she was traveling to defend her case for licensure without an APA/APPIC accredited internship program. Dr. Buck Pursell stated that the program had been APA/APPIC approved in the past, but the school system was financially unable to continue to maintain an APA/APPIC program. The program continued to be run with the same requirements of an APA/APPIC internship program even though it was no longer accredited. She provided a side by side comparison of her

program with an APA/APPIC accredited program. She is currently licensed with the Tennessee Public Education Department as a school psychologist. Dr. H. Moore called for a motion to approve the waiver of APA/APPIC membership for this applicant and to approve the application. A motion was made by Dr. Fleming, seconded by Dr. Staab. Mr. Anderson abstained. The motion carried. Ms. Morgan recommended the board give some statement as to the reasoning of the board's decision. She stated the statutory authority to make that decision is found in 63-11-208(c)(7). Dr. Moore stated in this case the applicant met the requirements that are essentially equal to what would have been required under APA/APPIC membership. He questions why an entire program could not afford the APPIC membership, but acknowledges that it is not her call for that matter. Discussion ensued among the board members around the fact that the board sometimes approves an application with this type of case and sometimes it does not approve the application. Some of the reasons cited for the decisions made included information provided by the applicant that influenced the decision, the history of decisions did not necessarily carry forward to help maintain consistency and the decision made is at the discretion of the board. Ms. Morgan stated 63-11-208(c)(7) and (d)(1)(a) as relevant statutes that give the board the authority to make the decision and the decision can be based on an equivalent program. A letter containing information concerning the requirement of an APA/APPIC approved program for licensure was discussed being added to the website.

Investigative Reports

Ms. Lori Leonard, Disciplinary Coordinator, Office of Investigations, presented the investigative reports for psychologists. New complaints for the year 2019 are thirteen. She stated of those thirteen complaints one was for falsification of records, one for sexual misconduct, one for criminal charges, three for unlicensed practice, six for unprofessional conduct and one for practice beyond the scope of practice. Investigations closed a total of twelve complaints in the year 2019. Two complaints were closed with insufficient evidence to formally discipline, six were closed with no action, three were closed with a letter of concern and one was closed with a letter of warning which is not reportable to the data bank as discipline. Currently there are fourteen open complaints being investigated and/or reviewed for psychologists. There have been zero, no new complaints opened or received for the year 2019 for psychological examiners. Two complaints have been closed. One was closed with no action and one was closed with a letter of warning. There is currently one complaint open and being reviewed and/or investigated at this time. Psychological assistant numbers are all zero. No new complaints received, no complaints closed and no complaints open to be reviewed for 2019. She presented the summary of currently monitored practitioners with one licensee with unlicensed practice, two on probation, one is revoked, four are suspended and two under reprimand.

Legislative Report

Ms. Sarah Warner, legislative liaison from the office of legislative affairs presented an update report on the legislation that passed this session.

Public Chapter 61

This act states that an entity responsible for an AED program is immune from civil liability for personal injury caused by maintenance or use of an AED if such conduct does not rise to the level of willful or wanton misconduct or gross negligence.

This act took effect on March 28, 2019.

Public Chapter 144

This act amends the Prevention of Youth Access to Tobacco and Vapor Products Act by limiting the places in which one may use vapor products. The act defines vapor products and prohibits the use of such products in a number of locations including child care centers, group care homes, healthcare facilities (excluding nursing homes), residential treatment facilities, school grounds, and several other areas. Several locations have specific exceptions set forth in the statute.

This act took effect on April 17, 2019.

Public Chapter 195

The majority of this act pertains to boards governed by the Department of Commerce and Insurance. One small section applies to the health related boards. Currently, the health related boards have an expedited licensure process for military members and their spouses. Previously, a spouse of an active military member had to leave active employment to be eligible for this expedited process. This act removes that requirement. This section applies to all health related boards. The Commissioner of Health is permitted to promulgate rules, but rules are not needed to implement the act.

This act takes effect July 1, 2019.

Public Chapter 229

This act allows healthcare professionals to accept goods or services as payment in direct exchange of barter for healthcare services. Bartering is only permissible if the patient to whom services are provided is not covered by health insurance. All barter accepted by a healthcare professional must be submitted to the IRS annually. This act does not apply to healthcare services provided at a pain management clinic.

This act took effect April 30, 2019.

Public Chapter 359

This act creates civil liability for the unlicensed practice of psychotherapy. A provider must have a license under Title 63 in order to treat a mental health disorder and practice without a license is

illegal (though some exemptions are listed in the act). The act does not expand or restrict the scope of practice for any person holding a license under Title 63.

This act goes into effect July 1, 2019.

Public Chapter 447

This act permits law enforcement agencies to subpoena materials and documents pertaining to an investigation conducted by the Department of Health prior to formal disciplinary charges being filed against the provider. This bill was brought by the Tennessee Bureau of Investigation.

This act went into effect May 22, 2019.

Insurance Legislation

Multiple acts were passed during the 2019 legislative session that affect healthcare plans and insurance and create certain obligations on providers and facilities. A few pieces of legislation include Public Chapter 407 and Public Chapter 239. Healthcare providers and facilities are encouraged to review these to make sure they meet their statutory obligations.

Tennessee Psychological Association

Dr. Pam Auble, TPA representative, reviewed a letter presented to the board from TPA acknowledging the need to renew the grant for colleague assistance services and supporting the continued use of Tennessee Colleague Assistant Foundation (TCAF) to provide colleague assistance services. She reviewed their services and funding. She emphasized that TPA supports TCAF's work.

Tennessee Colleague Assistance Foundation (TCAF)

Dr. David Mathis, TCAF spokesperson, stated that TCAF believes in the value of psychologists and in rehabilitation. He spoke in support of TCAF, their work, needs that they fill and services that they provide. He briefly spoke on confidentiality and also the appeal process.

Office of General Counsel

Ms. Paetria Morgan reported that there are no agreed orders, no consent orders, no open cases in OGC and no appeals in chancery court. She briefly covered the conflict of interest policy. She clarified that a board member can speak to an individual outside of the board meeting providing they are not speaking on behalf of the entire board and do not discuss anything that might come before the board that would require a vote. She briefly went over the individuals involved in the rulemaking process. The continuing education rules and the telepsychology rules are still in the internal review process. The ethical code rules have been returned back from the Governor's office and are currently set to have a rulemaking hearing on the ethical code rules at the

September 12 meeting. The applied behavior analysts committee cultural diversity rules are in the internal review process.

Administrative Report

Ms. Lisa Williams stated as of March 11, 2019 there are currently 1,405 licensed Psychologists, 361 licensed Psychological Examiners/Senior Psychological Examiners and 66 licensed Certified Psychological Assistants. There are currently 14 Psychologists applications in process, 6 newly licensed, 150 renewals. There were 20 retired, 5 expired and 1 reinstated retired and 0 reinstated expired licenses. There are currently 2 Psychological Examiners/Senior Psychological Examiners applications in process, 2 upgraded to Senior Psychological Examiners and 38 renewals. There is 1 retired, 1 expired and 0 reinstated licenses. There are currently 5 Certified Psychological Assistant applications in process, 6 newly licensed, 6 renewed, 1 expired license and 1 reinstated expired license. Ms. Williams asked the Board members to sign their travel and per diem claims and submit their lodging receipts. She also stated the next scheduled Board Meeting is September 12, 2019 and the following dates have been scheduled for 2019: December 5, 2019. Ms. Teddy Wilkins mentioned that the ASPPB Annual Meeting is being held in Minneapolis, MN. She asked for volunteers to attend the meeting. Ms. Morgan indicated that she would not be able to attend this year. Ms. Wilkins stated that she would like to attend. Dr. Fleming volunteered to attend as well as Dr. H. Moore. Dr. Moore called for a motion to approve attendance for the ASPPB meeting in October for Dr. Fleming, Ms. Wilkins and himself, Dr. Hugh Moore. A motion was made by Mr. Anderson and seconded by Mr. Tonos. The motion carried.

Discuss and Ratify/Deny Newly Licensed and Reinstated Psychologists

Newly Licensed

Mr. Anderson made a motion, seconded by Dr. Staab to ratify the following newly licensed Psychologists:

Psychologists

Alesch Heather

Bruijn Brian Dale

Jones Jasmine

The motion carried.

Kakkad Dhruvi

McCune Amanda Sue

Williams Charles Russell

Dr. Fleming made a motion, seconded by Mr. Anderson to ratify the following newly licensed Certified Psychological Assistants:

Certified Psychological Assistant

Gammage Christal Joy

Qualls-Lambert Leslie M

The motion carried.

Reinstated

Dr. Fleming made a motion, seconded by Mr. Anderson to ratify the following reinstated Psychologists and Psychological Examiner:

Taylor Chelsea Anne
White Erica Stovall

The motion carried.

Sr. PE Upgrades

Dr. Staab made a motion, seconded by Ms. Mazza to ratify the following Sr. Psychological Examiner licenses:

Mann-Day Cynthia
Mize Amy

The motion carried.

Discuss and Ratify/Deny Newly Licensed Behavior Analysts

Newly Licensed

Mr. Tonos made a motion, seconded by Mr. Anderson to ratify the following newly licensed Behavior Analysts:

Behavior Analysts

Adkins Jennifer M.	Kelly Tiffany K
Albert Nadia O	McDaniel Justin C
Cornfield Elizabeth M	McKee Ryan A
Elliott Brandi K	Melia Frank A
Fann Katie R	Morris Amy W
Farmer Brittany N	Neumann Kaitlyn J
Flannery-Reilly Adrienne	Painter Ashley N
Garrett Mika B	Porter Blair A
Garry Megan R	Pullum Megan Ruth
Gregory Mary Bailey	Ross Martha Dorian
Hennessey Holly A	Segovia-Bratton April D
Hunter Candice R	Shepple Hannah E
Jeter Lillie H	Shriner Carrie A
Jones Samantha K	Stefankiewicz Jennifer A

Ventimiglia Jessica L

The motion carried.

Mr. Tonos made a motion, seconded by Mr. Anderson to ratify the following newly licensed Assistant Behavior Analysts:

Assistant Behavior Analysts

Kahrl Cresanna
Morgan-Brown Darnethia

Taylor Stephen A

The motion carried

Mr. Tonos made a motion, seconded by Dr. Staab to ratify the following reinstated licenses:

Assistant Behavior Analysts

Hazelwood Audrey Carter
Palm Tracy

Szala Chad M.

The motion carried

Applicant File Review

Dr. John Brennan appeared before the board with a non-APA/APPIC pre-doctoral internship program, his training and title came into question during his internship and also to be discussed is the requirement of two supervisors during internship at all times. Dr. Fleming reviewed his supervisors during his internship and established he had two supervisors at all times and the gaps indicated were over school breaks and these times were not counted as part of his internship hours. His title during his internship was intern along with one other intern. Dr. Brennan went over his internship program and that it was equivalent to an APA/APPIC program. Dr. Brennan is also licensed as an attorney. Dr. Moore called for a motion to approve the licensure of Dr. John Brennan as a psychologist in light of what he has presented. A motion was made by Dr. Staab and seconded by Mr. Anderson. The motion carried.

Dr. Leslie Russell-Martin appeared before the board with a non-APA/APPIC graduate program and non-APA/APPIC pre-doctoral internship program. The questions raised concerned the APA/APPIC approval, the PhD, was it an online program, and was the internship through another university. The internship was through North Central University in Minnesota which is an online cohort university. She was established as a Marriage and Family Therapist. Minnesota established a process of equivalency in the state noticing and recognizing the real practice of psychology is very hard. Minnesota has outlined in their statutes what is APA approved and what is the equivalency and what is not the equivalency. She states that at the time of licensure she met the requirements of the statutes of Minnesota. Her intern supervisors were licensed with master's degrees and her supervision has come into question. Dr. Fleming cited that the

regulations were clearly not met for licensure. She had only one supervisor on site and it was a master's level psychologist and not doctoral level. Dr. Moore stated that she made up for that during her post-doctoral experience. Dr. Fleming stated that equivalency occurred after the pre-doctoral internship. Dr. Fleming stated then equivalency means was it equivalent during the time in which the applicant was to have secured that level of supervision and that would have been during that internship year. And to now say it is alright because she has six years of post-doc experience which clearly, she is a competent licensed psychologist. Dr. Moore stated that this is one those times when you have to look to the spirit of the law and not so much to the letter of the law. Ms. Morgan cautioned the board to look to the statutes and rule 1180-02-.02(2)(d)(1-2) if they are having difficulty making the decision. Dr. Moore states that he feels it has not become that murky. Mr. Anderson stated that out of a ten-member board we only have three people with a PhD sitting on it today. We have members without PhD's voting on PhD issues. Mr. Anderson stated he would think if you have concerns about people supervising folks who only have a master's degree while doing supervision, then the last thing that you would want is two master's level psychologists who are health service providers making decisions about doctorate level psychologists. Dr. Fleming and Dr. Moore both addressed Mr. Anderson. Dr. Moore stated he was not hearing a particular insult to master's level psychologists. Mr. Anderson denied that he was saying it was an insult, but that it was a concern. Ms. Morgan stated that a declaratory order is an option. Dr. Russell-Martin can petition for a declaratory order which is when the person does not line up with what the rules say, but they are asking for you to make a specific exception for them because of the reasons they would spell out. And if the board decides to grant that petition, then at that point the board's ruling would only apply to her and it would not be something that other people would then be able to use. The declaratory order would not happen today. She would have to file for a declaratory order and it would have to go through a process before it can come before the board at a later meeting. Dr. Moore stated that he does not have a problem with making a decision as long as the applicant has adequate education and training. Ms. Morgan stated for the record that her recommendation is to have a petition filed for a declaratory order. Ms. Morgan stated there is an attendance requirement and touched on the makeup of the board including psychological examiners as well as psychologists must be on the board. Dr. Moore called for a motion to approve licensure. A motion was made by Mr. Anderson and seconded by Dr. Staab. The motion was followed by discussion and a vote was taken. There was a vote of four yes and two no for licensure. The vote for licensure passes and Dr. Russell-Martin is approved to take the Ethics and Jurisprudence Exam and go forward with the process.

Correspondence

Ms. Sandra White asked the board's advice regarding a particular post-doctoral program and would like the board to state if this post-doctoral program would be accepted. Ms. Williams stated that the applicant is aware that the board cannot advise an applicant about a program or approve a program. Ms. Morgan confirmed what Ms. Williams said and cautioned the board against making a decision. She suggested they give general guidance. Dr. Moore recommended Ms. White check with the program chair in that department and have them see if their requirements are consistent with our rules and statutes. Mr. Anderson suggested we visit this a little longer referencing an example from many years ago where a similar situation arose. Mr. Anderson said, "I think it probably is something we need to talk about for a couple of minutes

because it may become an issue again. Dr. Fleming made a motion that the board have Ms. Williams respond to the applicant that the board is unable to honor her request and that she needs to go through the channels as outlined in our regulations. Motion seconded by Mr. Tonos. The motion carried.

Santa Fe Meeting

Dr. Fleming spoke about attending the Santa Fe Meeting. He felt it was organized and very well structured. The sessions were really good. The EPPP 2 was probably one of the more heightened sessions by far because of comments made by Dr. Fleming. Dr. Fleming expressed his concern over the research in regards to the EPPP and the EPPP 2. Minorities have been shown to fail the exam at a higher rate than their non-minority counter-parts in programs and that mostly minority students seem to fail at a higher rate with the EPPP 2. It was clear to Dr. Fleming that he did not get enough data from them or that they took minorities into account in the development of the EPPP 2. Thereby making it twice as hard for minorities to come into the field. That opened a big debate in the session. Dr. Moore stated that he mentioned at his first meeting which was in Anchorage and he brought this same point up to Matt Turner who runs the EPPP examination. Dr. Moore stated that they are now finally collecting that data to take a look at adverse impact. Dr. Moore mentioned another topic discussed was PsyPact which is for telehealth practice across state lines. Ms. Wilkins stated PsyPact was introduced last year legislatively, but the bill was withdrawn.

Discuss 1180-01 Psychology Rule Changes – Continuing Education

2019 Continuing Education Rule Amendment Questions

The board discussed the ten continuing education rule amendment questions at length making changes as needed to the continuing education rules in 1180-01-.08 and applied the answers to the rules being amended.

22 hours for a book or article vs.20 hours real time

The board discussed 1180-01-.08(2) concerning 20 CE hours of real time interaction and the discrepancy with the 22 CE hours received for a book or article causing a licensee to obtain 42 hours instead of 40. The board made the decision to change the hours in rule 1180-01-.08(2)(d)2.(i, ii, iii) from 22 to 20. A motion to change the 22 hours to 20 was made by Ms. Mazza and seconded by Dr. Fleming. The motion carried.

With no other Board business to discuss Ms. Mazza made a motion, seconded by Dr. Fleming to adjourn at 1:58 p.m. The motion carried.

Ratified by the Board of Examiners in Psychology on this the 12th day of September, 2019.