

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

DATE: June 14, 2018
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
Todd Moore, Ph.D.
H. R. Anderson, Jr., SPE
J. Dale Alden, Ph.D.
Mickey Tonos, LBA
Connie Mazza, SPE

BOARD MEMBER

PRESENT BY PHONE: Rebecca Joslin, Ed.D., Ph.D.

BOARD MEMBERS

ABSENT: Neelam Jain, Ph.D.
Jennifer Winfree, Consumer Member

STAFF

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

Dr. Moore, Chair, called the meeting to order at 9:09 a.m. A roll call was conducted and a quorum was present. Board staff introduced themselves.

Legislative Report

Patrick Powell, legislative affairs liaison attorney, presented a summary report of new public chapters as follows:

[Public Chapter 611](#)

This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in “redline form” to people attending the hearing.

This took effect July 1, 2018.

Public Chapter 638

This chapter prohibits healthcare prescribers and their employees, agents, or independent contractors from in-person solicitation, telemarketing, or telephonic solicitation of victims within 30 days of an accident or disaster for the purpose of marketing services of the healing arts related to the accident or disaster. There are specific exceptions laid out in the chapter.

This act took effect July 1, 2018.

Public Chapter 675

This act requires the department of health to accept allegations of opioid abuse or diversion and for the department to publicize a means of reporting allegations.

Any entity that prescribes, dispenses, OR handles opioids is required to provide information to employees about reporting suspected opioid abuse/diversion. That notice is to either be provided individually to the employee in writing and documented by the employer OR by posting a sign in a conspicuous, non-public area of minimum height and width stating: “NOTICE: PLEASE REPORT ANY SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT TO OPIOIDS, TO THE DEPARTMENT OF HEALTH'S COMPLAINT INTAKE LINE: 800-852-2187.”

Whistleblower protections are also established. An individual who makes a report in good faith may not be terminated or suffer adverse licensure action solely based on the report. The individual also is immune from any civil liability related to a good faith report.

This act took effect January 1, 2019.

Public Chapter 744

This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency.

This act took effect January 1, 2019.

Public Chapter 745 and Public Chapter 793

These public chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies).

These acts took effect July 1, 2018.

Public Chapter 754

This chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member's freedom of speech.

Freedom of speech includes, but is not limited to, a member's freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504.

Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity's sunset status, rulemaking authority and funding.

This act took effect April 18, 2018.

Public Chapter 844

This act requires the department of education to establish a student support collaborative to review and define the roles and responsibilities for school social workers, school counselors, school psychologists, and school nurses. The collaborative shall identify available resources and areas the groups can collaborate on to provide high quality support to students. The collaborative shall include (among others) representatives of:

1. The National Association of Social Workers, TN Chapter
2. The Tennessee Association of School Social Workers
3. The Tennessee Association of School Counselors
4. The Tennessee Association of School Nurses
5. The Tennessee Association of School Psychologists

This act took effect April 26, 2018.

Public Chapter 929

This act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the government operations committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule.

This act also prohibits any policy or rule by any agency that infringes upon an agency member's freedom of speech.

Finally, this act establishes that an agency's appointing authority shall have the sole power to remove a member from a board, committee, etc.

This act took effect July 1, 2018 and applies to policies adopted on or after that date.

Public Chapter 954

This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act.

This act took effect January 1, 2019.

Public Chapter 964

This legislation requires the department of children's services (DCS) to develop instructional guidelines for child safety training programs by January 1, 2019 for members of professions that frequently deal with children at risk of abuse. DCS is required to work with each licensing board to ensure any child safety programs created by a licensing board fully and accurately reflect the best practices for identifying and reporting abuse as appropriate for each profession.

This act took effect May 15, 2018.

Public Chapter 1021

This act allows for appeals of contested case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person's discretion, in the chancery court nearest the place the action arose, or in the chancery court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency's final order.

This act took effect July 1, 2018.

Investigative Reports

Lori Leonard, Disciplinary Coordinator, presented the summary of currently monitored practitioners with five on probation, one is revoked, three are suspended, three are under agreed orders and three have been reprimanded. Nine new complaints have been received on psychologists. One complaint is for falsification of records, one for unlicensed practice, five for unprofessional conduct, one for medical record request and one lapsed license. Seventeen complaint files have been closed to date. One complaint was combined with a previous file already opened, one was sent to the Office of General Counsel for disciplinary action, nine were closed without action, three closed with a letter of concern and three closed with a letter of warning. Currently there are sixteen complaints under review and/or investigation. There are two new complaints year to date for psychological examiners. One complaint was for fraud or false billing and one was unprofessional conduct. One complaint was closed with a letter of warning. Three complaints are currently open or being investigated. There is no new information or action concerning certified psychological assistants.

Tennessee Psychological Association (TPA)

Pamela Auble announced that TPA would be sending Denise Davis to the ASPPB meeting in August to further study about the interjurisdictional Psy/PACT dealing with telehealth and license portability.

Tennessee Colleague Assistance Foundation

Dr. Murphy Thomas, Tennessee Colleague Assistance Foundation (TCAF), Chairman of the Board reminded the board that TCAF's role is rehabilitation and is a private, non-profit organization that receives referrals from two sources which are from the board and voluntarily from individuals. The individual enters into a monitoring contract with TCAF. A voluntary individual can end this contract at any time whereas an individual ordered by the board cannot end the contract. TCAF has amended their limits of confidentiality report by adding TCA 63-1-150 which provides significant protection to TCAF for their work as a quality improvement committee. Specifically, the statute provides that all records and actions are both confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceedings. TCA 63-1-136 provides that any information reviewed by TCAF or any findings, conclusions or recommendations from TCAF shall not become public record nor be made available to the court by subpoena or discovery proceedings. A change has been made to the contractual arrangement with the individual that reads "TCAF monitoring committee is intended to be a quality improvement committee as defined by Tennessee Code 63-1-150. Any and all actions of the TCAF monitoring committee are intended to come within the provisions and protections of the statutes." The rest of the contract remained the same. He summarized that there is some information that TCAF may have that is critical to the board and the investigating arm doing their work and without that information they couldn't do it. TCAF will only expose the information that is necessary for the system to work.

Minutes

Upon review of the March 15, 2018 minutes, Ms. Mazza made a motion, seconded by Mr. Anderson, to approve the minutes as presented. The motion carried.

Office of General Counsel

Ms. Paetria Morgan stated there is one (1) consent order and one (1) agreed order.

Dr. William Joseph Smith entered into a consent order agreeing he worked on an expired license from April 1, 2017 until February 2, 2018. The terms of the consent order are that he will be reprimanded and must pay eight type B civil penalties in the amount of one hundred dollars (\$100.00) each for a total of working eight (8) months on an expired license, for the total amount of eight hundred dollars (\$800.00) effective the date of entry of this order if ratified. He must pay prosecution and settlement costs as signed by him on April 19, 2018. A motion was made by Mr. Tonos to ratify the order, seconded by Mr. Anderson.

Dr. Sandra L. Kilpatrick entered into an agreed order. According to the terms, this agreement is unique because it does not go into effect until or if she decides to reinstate her license. Currently her license is retired. She retired her license after she violated a prior board order. OGC recommends her license be held in abeyance and upon reinstatement her license is immediately placed on suspension until she goes and obtains the TCAF evaluation which was asked of her by the board in the initial order in March of 2017. The allegations against her were that she was teaching a course to students at a pain management clinic on how to evade law enforcement detection. She did not contact TCAF or get the evaluation. Her license continued to be active until she placed it in retirement in February of this year, 2018. She has agreed to this order. This order has not been reported to the national practitioner data bank and will remain this way until she decides to reinstate her license, but the original action was reported to the date bank last year. Dr. H. Moore called for a motion to ratify the consent order of holding Sandra L. Kilpatrick's license in abeyance as presented by Ms. Morgan. Mr. Anderson made a motion, seconded by Dr. Alden. The motion carried.

Ms. Morgan began the review of the Petition for Declaratory Order about **Dr. James Walker** by asking if anyone had a conflict of interest. Dr. Alden had a conflict of interest and recused himself. He is physically present and will step out when the appropriate time becomes necessary. A teleconference was set up with Dr. Rebecca Joslin to establish a quorum for this review. Dr. H. Moore called for a motion to conduct the meeting electronically. Mr. Anderson made the motion, seconded by Mr. Tonos. Motion carried by roll call. Dr. H. Moore called for a motion that this review is electronically necessary to have a quorum. Mr. Tonos made the motion, seconded by Mr. Anderson. Motion carried by roll call. This matter with Dr. Walker began with a consent order. The stipulations of fact December 16-17, 2012 were the respondent used illicit drugs and was under the influence. It also stated that he used cocaine in 1999 and had received treatment for his addiction in the past and had been successful in staying sober. He entered into a consent order with the board. The terms of the consent order included a suspension and required him to enter a lifetime monitoring agreement with the Tennessee Colleague Assistance Foundation (TCAF). This included probation of five years. This consent order was entered on June 13, 2013. On October 16, 2017, TCAF withdrew advocacy. He is required to maintain lifetime advocacy. On January 16, 2018, the respondent petitioned the board for an order modification. Ms. Morgan explained that a person can petition for an order modification only if it is determined that it is impossible for one to comply with the order. His petition for an order modification was denied. According to the rules if the petition for an order modification is denied, one can then petition for a declaratory order. This situation is dealing with the validity and applicability of a statute or rule or an order and in this case, it's an order. He wants the board to grant him the opportunity to go to a different wellness program other than what TCAF offers. The only thing the board is deciding today is whether to grant the petition for the declaratory order which means the board wants to set it for a contested case hearing. C. J. Gideon, representing Dr. Walker, presented additional information. He stated Dr. Walker had a relapse on September 22, 2017. He spoke about Dr. Brian Wind with TCAF sending Dr. Walker a letter on September 28, 2017 in which the letter recommended Dr. Walker go to PSI and TCAF's future decision about advocacy for Dr. Walker will be dependent upon additional actions. Another letter was sent by TCAF dated October 16, 2017 withdrawing advocacy. Ms. Morgan stated the state filed charges against Dr. Walker in February 2018. The state has a contested case set to go forward pursuant to a board order violation in September 2018. The

contested case was set for today. The respondent asked for a continuance and the continuance was granted. The prosecution asks that the petition for a contested case pursuant to the declaratory order be denied because it will be duplicative. There is already a case based on the same act or occurrence. To grant this petition, would be to accept having two contested cases in September for the same matter. Mr. Gideon reiterated the sequence of events and again asked for the board's consideration. The board discussed the documents and the information presented. Dr. H. Moore called for a motion to make a roll call vote for denying or granting the petition. Mr. Anderson made a motion, seconded by Ms. Mazza. A roll call vote was taken with four denying votes and two granting votes. The petition is denied.

Applicant File Review

Denise Foster came before the board because the number of pre-doctoral internship hours submitted on her internship verification document was 1800 hours which did not fulfill the 1900 hours as required in the rules. She presented the board with a letter from Dr. Martin Rock which stated her internship was a two-year half time internship that was approved by her APA approved clinical psychology program at Columbia University. She worked three days per week which totaled 2000 hours. The letter was not notarized and it was decided not to accept this letter. It was the decision of the board as per statute 63-11-208 to exercise the discretion of the board to accept the 1800 hours based on the additional years of supervised experience that have occurred. Dr. Moore called for a motion to exercise the discretion of the board to accept the 1800 hours. Mr. Anderson made the motion, seconded by Dr. T. Moore. The motion carried.

Philip Norfolk appeared before the board to explain his individualized internship that was not APPIC listed and appeared confusing during review. Dr. Norfolk stated that his 1700 hour internship was not APA approved or APPIC listed with some supplemental hours with an APPIC listed program which included didactic sessions. He then moved into a post-doctoral fellowship position as a pre-doctoral candidate. Dr. H. Moore called for a motion allowing Dr. Norfolk be approved to sit for the EPPP exam and the Ethics and Jurisprudence exam contingent upon receipt of additional documentation from Dr. Keisling that states the APPIC program number and the total number of APPIC listed hours accumulated. A motion was made by Dr. T. Moore and seconded by Dr. Alden. The motion carried.

Administrative Report

Ms. Lisa Williams stated as of June 11, 2018 there are currently 1,400 licensed Psychologists, 378 licensed Psychological Examiners/Senior Psychological Examiners and 52 licensed Certified Psychological Assistants. There are currently 21 Psychologists applications in process, 10 newly licensed, 63 renewals with 7 renewing online for a percentage of 11%. There were 18 retired, 3 expired and 2 reinstated licenses. There are currently no applications, or newly licensed, Psychological Examiners/Senior Psychological Examiners, 15 renewals with 1 renewing on line for a percentage of .07%. There are 2 retired, 5 expired and 3 reinstated licenses. There are currently 3 Certified Psychological Assistant applications, 1 newly licensed, 2 renewed with 0 renewing online for a percentage of 0%. There are 0 retired, 2 expired and 0 reinstated licenses. Ms. Williams asked the Board members to sign their travel and per diem claims. Ms. Williams

stated the next scheduled Board Meeting is September 13, 2018 and the following dates have been scheduled for 2018 and 2019:

December 6, 2018
March 14, 2019
June 13, 2019
September 12, 2019
December 5, 2019

Discuss and Ratify/Deny Newly Licensed and Reinstated Psychologists

Newly Licensed

Dr. T. Moore made a motion, seconded by Dr. Alden to ratify the following newly licensed Psychologists:

Psychologists

**Adam David Arsenault
Gwendolyn Drake
Cameron L. Gordon
Sabrina Grubbs
Kathryn Sweeney Hahn**

**Amy Michelle Perkins
Amrita Uttamchandani
Kelly H. Watson
Justin Liane Williams
Jillian Wolf**

The motion carried.

Dr. T. Moore made a motion, seconded by Ms. Mazza to ratify the following newly licensed Certified Psychological Assistants:

Psychological Assistant

Leanne M. Ring

The motion carried.

Reinstated

Dr. T. Moore made a motion, seconded by Dr. Alden to ratify the following reinstated Psychologists:

Psychologist

Jill I. Amos

William Joseph Smith

The motion carried.

Discuss and Ratify/Deny Newly Licensed Behavior Analysts

Newly Licensed

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

Behavior Analysts

**Kevin T. Ashmeade
Emily Bruce
July Bryant
Brittany A. Degner
Kirby Ellen Fitzgerald
Audrey C. Hazelwood
Sara Hibpshman
Elisabeth A. Johnson
Hayley E. Johnson**

**Courtney A. Lane
Kyla L. Langford
Jennifer Morgan
Chelsea S. Morrison
Amber Peters
Brian M. Raftery
Sarah K. Simpson
Heidi Snow-Witzeman
Jessica L. Warpool**

The motion carried.

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

Assistant Behavior Analysts

Alex J. Mosley

Jennifer Young

The motion carried.

Mr. Tonos made a motion, seconded by Dr. T. Moore to ratify the following DIDD Upgrade to Behavior Analysts:

DIDD Upgrade to Licensed Behavior Analyst

Vargas Clark

Nichole J. Henry

The motion carried.

Discuss CE Hours for Sr. Psychological Examiner Upgrade

An application for upgrade to Sr. Psychological Examiner raised a question in the requirements today for a Psychological Examiner to upgrade concerning their continuing education (CE's) and the five (5) year period mentioned in the statutes. After much discussion among the board, administrative staff, and the attorney, it was stated that the 1997 CE rules would be adhered to

according to the statues and these rules would be looked up and applied to the current and future applications for upgrade from Psychological Examiner to Sr. Psychological Examiner.

Discuss and take action, if necessary regarding EPPP2 and Psy/Pact

Dr. H. Moore gave a brief explanation of the EPPP2 which is a second exam being put in place by the Association of State and Provincial Psychology Boards (ASPPB) as a requirement before licensure and how the ASPPB takes this very seriously and will discuss this all summer to determine the best steps to put this in place. The state boards have received this information with mixed acceptance and hence the reason for the summer long discussion. Ms. Wilkins pointed out that the intention of the ASPPB is to implement this new exam in January 2020. At the conference, the attendees were told that a state cannot opt of using the EPPP2 (part 2 or the Enhanced EPPP). If a state does not use the Enhanced EPPP then they cannot use the EPPP. This has agitated many states at this time. A recent letter received from the ASPPB is that the ASPPB board is planning to re-evaluate this exam. There has been a question raised as to whether the ASPPB even has a right to introduce and enforce this exam. Currently an applicant takes the EPPP in Tennessee after their graduate program while they are working on their post-doctoral hours. The ASPPB is suggesting that the EPPP may possibly be required to be taken during the graduate year and the EPPP2 will be taken later. Ms. Wilkins pointed out that if this exam is put into place and Tennessee does not go along with this decision, Tennessee will have to come up with some kind of licensing exam and that could impact Tennessee licensees being accepted in other states. It will greatly impact mobility.

Dr. H. Moore explained that Psy/Pact deals with the ability of licensees to practice in other states through telehealth or telemobility. It's an agreement between states that allows temporary mobility or telemobility. Several states have enacted this agreement and currently the only state bordering Tennessee that has enacted this agreement is Georgia. It is anticipated that the Psy/Pact topic will be the main discussion at the ASPPB conference in August. A representative is being sent from TPA and the board has volunteered to send one administrative staff and one board member upon approval by administration. Mr. Tonos volunteered to attend and later in the meeting removed himself as not being able to attend. Dr. H. Moore called for a motion for Ms. Wilkins and himself to attend the ASPPB conference. A motion was made by Dr. T. Moore and seconded by Mr. Anderson. The motion carried.

Telepsychology Rulemaking, Rule Amendments and Policies

Dr. H. Moore started the discussion by mentioning the proposed telepsychology rules draft and the package of materials presented to be reviewed. Ms. Morgan stated the package of materials before the board includes the telepsychology statutes and rules. A collection of questions through the internal review process was posed by one of the managing attorneys has been included in the package as well as the rules from another Tennessee profession and the rules from Ohio as a reference.

The questions were discussed and action taken.

The first question asked if the communication had to be live. The rule was re-written to read as follows:

- (1) "Real-time information exchange typically using audio or visual technology that are part of a plan of care and at a scheduled or agreed upon time. Other types of technology such as text or instant messaging that allows for real-time information exchange may be chosen based on clinical need and not convenience."

A motion was made by Mr. Anderson to accept the suggestion of the re-written sentence, seconded by Mr. Tonos. The motion carried.

The second question asked about the word domicile and what does it mean. Additional words were added to the rule following the word domicile:

- (3) "or physically located"

A motion was made by Mr. Anderson to accept the suggestion of the additional words, seconded by Dr. T. Moore. The motion carried.

The third question addressing paragraph four deals with the wording "licensees recognizing" and "licensees are aware". The words were changed to read as follows:

- (4) "licensees should recognize"
"licensees should be aware"

A motion was made by Mr. Anderson to accept the suggestion of the word changes, seconded by Dr. T. Moore. The motion carried.

The fourth question dealt with the thought that paragraph (4)(1) should be a stand-alone paragraph. The board agreed that this paragraph can be moved to be a stand-alone paragraph. The board found no issues with the wording of the paragraph.

The fifth question dealt with and the wording "additional risks" in paragraph (5) concerning supervision in regards to telecommunication. The wording was also located in paragraph (4). The wording was changed from additional risks in both paragraphs (4) and (5) to:

- "potential risks"

A motion was made by Mr. Anderson to accept the suggestion of the word changes, seconded by Dr. T. Moore. The motion carried.

The sixth question dealt with section (5)(a) and to consider how the language is different in (4)(a) and to ascertain a reason why the past board made the language different. The board made the decision to make no changes including the concern about supervision based on the fact that it is taken on a case by case basis.

The seventh question dealt with paragraph (5)(c) supervision dependent telepsychology services. The board made the decision to add words to the phrase so that it appears:

- (5)(c) supervision "that is" dependent "upon" telepsychology services

A motion was made by Mr. Anderson to accept the suggestion of the word changes, seconded by Dr. T. Moore. The motion carried.

The board also made the changes to the following sentence by adding words and removing the words at the end of the sentence to read:

(5)(c) “and a plan for” an alternative means of re-establishing electronic or other connection under such circumstances.

A motion was made by Mr. Anderson to accept the suggestion of the word changes, seconded by Dr. T. Moore. The motion carried.

The eighth question dealt with questioning the language between (5)(g) supervision piece and the patient piece. The board made the decision to move this paragraph up to (2), move all the paragraphs down and change the words to remove “with supervisees”.

(2) “Whenever feasible, use secure communications,”

A motion was made by Mr. Anderson to accept the suggestion of the word changes, seconded by Dr. T. Moore. The motion carried.

Other Board Business

Dr. H. Moore stated the importance to the board of having a representative of the community present. The current community representative has not physically attended any board meetings since being appointed to the board. Ms. Morgan stated that there is a statutory attendance requirement and it is to be reported directly from the board when a board member has violated that requirement to the governor’s office. Dr. H. Moore called for a motion to send a letter to the governor’s office informing him that the community member is not participating on the board and the board requests this representative to be replaced. A motion was made by Mr. Anderson, seconded by Dr. T. Moore. The motion carried.

Ms. Morgan requested the board’s sponsorship to attend the Federal Association of Regulatory Boards (FARB) conference meeting. This is a conference that supports board business. Dr. H. Moore called for a motion for the board to be in favor of Ms. Morgan attending the FARB conference in Portland, OR. A motion was made by Mr. Anderson, seconded by Dr. T. Moore. The motion carried.

With no other Board business to discuss Mr. Anderson made a motion, seconded by Dr. T. Moore, to adjourn at 4:49 p.m. The motion carried.

Ratified by the Board of Examiners in Psychology on this the 13th day of September, 2018.