

TENNESSEE BOARD OF EXAMINERS IN PSYCHOLOGY

DATE: June 16, 2016
TIME: 9:00 a.m., CDT
LOCATION: Health Related Boards
Iris Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT:

Janice Pazar, Ph.D., Vice-Chair
Mark Loftis, Ph.D., Sr. Psychological Examiner
David C. Mathis, Ed.D.
Timothy Urbin, Ph.D.
Rebecca Joslin, Ed.D., Ph.D.
Annette Little, Ph.D., BCBA-D
Hugh D. Moore, Ph.D.

BOARD MEMBERS

ABSENT:

J. Trevor Milliron, Ph.D., Chair
Jennifer Winfree, Consumer Member

STAFF

PRESENT:

Teddy Wilkins, Unit Director
James Hill, Board Administrator
Paetria Morgan, Office of General Counsel

In Dr. Milliron's absence, Dr. Pazar, Acting Chair, called the meeting to order at 9:05 a.m. A roll call was conducted and a quorum was present.

Dr. Pazar said Dr. Milliron's term as a Board member was up and stated they would conduct the election of officers later on in the meeting.

Investigative Report

Nichelle Dorroh, Office of Investigations, stated there are sixteen (16) complaint cases in their office against Psychologists. Ms. Dorroh said a review was conducted in May and they are in the process of scheduling another review.

Ms. Dorroh stated there are no complaint cases against Psychological Examiners.

Ms. Dorroh said they are currently monitoring six (6) Psychologists and three (3) Psychological Examiners.

Financial Report

Ms. Vanessa Crutcher, Finance Office, reviewed the projections for FY2016 stating the Board has total direct expenditures of \$126,552.61; total allocated expenditures of \$80,728.28; with total expenditures of \$207,280.41. Ms. Crutcher said the projected board fee revenue is \$291,174.88 and projected current year net of \$83,894.47 for a cumulative carryover of \$1,026,436.86.

Minutes

Upon review of the March 17, 2016 minutes, Dr. Mathis requested that several comments he made at that meeting to be incorporated in the minutes. Dr. Mathis was asked to submit that information to the Mr. Hill via e-mail.

Upon discussion, Dr. Loftis made a motion, seconded by Dr. Mathis, to approve the minutes as corrected. The motion carried.

Office of General Counsel (OGC)

Ms. Morgan stated there are two Consent Orders to be presented to the Board today and four (4) open cases in OGC.

Ms. Morgan reviewed the Conflict of Interest Policy with the Board and asked Board members if they have a potential conflict to either recuse themselves from the proceeding, or discuss the matter with her outside the meeting room.

Ms. Morgan said the fee reduction rules went into effect in December 2015 and that the tele-psychology rules are still in the internal review process.

Ms. Morgan said SB1556 which became PC 926 in reference to counselors passed but did not have any impact on this Board.

Ms. Morgan said the Applied Behavior Analyst Committee rules are in the AG's Office, after which they will go to the Secretary of State's Office to remain for at least ninety (90) days. Ms. Morgan said before the ninety (90) days are up the Board chair and staff will go before the Government Operations Committee to discuss the rules. Ms. Morgan stated there is no time frame when the rules will be returned.

Dr. Mathis asked, in regards to the tele-psychology rules, if it was unusual for such time to be given for the review.

Ms. Morgan explained the steps of the internal review process. Ms. Morgan stated the Applied Behavior Analyst Committee rules have been in the AG's Office since March 2016 and could remain there another six months or later.

Dr. Mathis asked what the next step was after the internal review process.

Ms. Morgan explained that the rule will go to the Secretary of State's Office where it must stay for 45 days plus 5 business days for the Board to schedule a rulemaking hearing. Ms. Morgan said after the rulemaking hearing the rules will go to the Attorney General's Office to be checked for legality, after which they will go back to the Secretary of State's Office for ninety (90) days during which time it goes before the Government Operations Committee.

Consent Orders

Ms. Morgan presented a Consent Order for **Derek R. Hopko, Ph.D.** stating that Dr. Hopko, who was a psychology professor at the University of Tennessee at Knoxville (UTK) admitted to having relationships with three (3) of his students between 2009/2015, which is a violation of the Tennessee Psychology Practice Act and Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association.

Ms. Morgan said the Consent Order suspends Dr. Hopko's license for three (3) months, during which time he must enter into a five (5) year Rehabilitation and Aftercare Monitoring Program (RAMP) contract with the Tennessee Colleague Assistance Foundation (TCAF); petition the Board for an Order of Compliance lifting the suspension restriction after the three (3) months; pay three (3) Type B Civil Penalties of \$400 each for a total of \$1,200 in full within sixty (60) days; and, after completion of the suspension have his license placed on probation to run concurrent with the duration of the TCAF contract.

Upon discussion, Dr. Loftis made a motion, seconded by Dr. Mathis, to approve the Consent Order as written. The motion carried.

Ms. Morgan presented a Consent Order for **Daniel L. Wood, Ph.D.** stating that Dr. Wood, a private practice practitioner, admitted to giving a former patient \$4,000 over the course of ten (10) months by paying her utility bills and giving her a computer which is a violation of the Tennessee Psychology Practice Act.

Ms. Morgan said the Consent Order reprimands Dr. Wood's license; require him to enter into a one (1) year Rehabilitation and Aftercare Monitoring Program (RAMP) contract with the Tennessee Colleague Assistance Foundation (TCAF); pay one (1) Type B Civil Penalty of \$250 in full within sixty (60) days; and, pay actual and reasonable costs of prosecuting this case to the extent allowed by law and not to exceed \$4,000 in full within sixty (60) days.

Upon discussion, Dr. Loftis made a motion, seconded by Dr. Little, to approve the Consent Order as written. The motion carried.

Legislative Liaison, Lacey Blair

Lacey Blair, Legislative Affairs, gave an update on Public Chapter 926 and Public Chapter 609.

Ms. Blair stated PC 926, effective April 27, 2016, states that counselors or therapists providing counseling or therapy services will not be required to counsel or serve a client as to goals,

outcomes, or behaviors that conflict with the sincerely held principles of the counselor or therapist, provided that the counselor or therapist coordinates a referral of the client to another counselor or therapist who will provide the counseling or therapy.

Ms. Blair said Public Chapter 609, effective March 22, 2016, changes the Applied Behavior Analyst Committee's termination date from June 30, 2016 to June 30, 2022 and affects T.C.A. 63-11-303(f) to require Committee members to attend no less than 50% of the meetings. Ms. Blair said if a member does not attend at least 50% of the meetings, the Chair must let the appointing authority know the member is in violation of the attendance policy and steps will be taken to remove the member from the Committee.

Ms. Blair said Public Chapter 763, effective July 1, 2016, affects all Health Related Boards and permits licensees whose licenses have expired due to non-payment to reinstate their license upon payment of the renewal fee and late fee. The late fee is capped at twice the amount of the renewal fee. The licensee must have obtained the required continuing education.

Ms. Blair stated the Board is a creation of statute by the legislature and any derived authority comes from them.

Ms. Wilkins stated Public Chapter 763 will require a rule amendment to include this language.

Administrative Report

Mr. Hill stated as of June 14, 2016 there are 1385 licensed Psychologists, 430 licensed Psychological Examiners/Senior Psychological Examiners and 46 licensed Certified Psychological Assistants.

Mr. Hill said as of the last meeting there are 22 psychology applications in process, 1 CPA applications in process and 16 newly licensed psychologists.

Mr. Hill said 151 psychologists renewed their licenses, 98 renewed on-line for a 65% on-line renewal rate, 20 retired, 3 expired and 3 reinstated.

Mr. Hill stated there are 0 newly licensed psychological examiners/senior psychological examiners, 37 renewed, 21 renewed on line for a 57% on-line renewal rate, 3 retired, 1 expired and 1 reinstated.

Mr. Hill said there is 0 newly licensed CPA, 3 renewed their license, 0 renewed online for a 0% on-line renewal rate and 0 retired, 0 expired and 0 reinstated.

Mr. Hill said the following Board meetings for 2016 are:

Sept 15, 2016
December 8, 2016

Mr. Hill stated the Board has scheduled the following dates for the 2017 meetings:

March 16-17, 2017
June 15-16, 2017
September 14-15, 2017
December 7-8, 2017

Dr. Mathis stated he has received a lot of positive feedback on Mr. Hill's responsiveness and helpfulness to applicants.

Dr. Pazar asked if they could get a statistical report for the last five to ten years on the number of licensees and retirees to get an idea of whether they are maintaining a balance in licensure.

Mr. Hill stated he would look into getting that information for the Board.

Agreed Citations

Upon review of an Agreed Citation for **Joann S. Quintero, Ph.D.** for not obtaining the required continuing education for 2014/2015, Dr. Mathis made a motion, seconded by Dr. Urbin, to approve the citation as written. The motion carried.

Upon review of an Agreed Citation for **Allison Gunn, P.E.**, for practicing on a lapsed license for twelve months, Dr. Urbin made a motion, seconded by Dr. Loftis, to approve the citation as written. The motion carried.

Upon review of an Agreed Citation for **Nicholas A. Seiveking, Ph.D.** for practicing on a lapsed license for three month, Dr. Mathis made a motion, seconded by Dr. Loftis, to approve the citation as written. The motion carried.

Discuss and Ratify/Deny Newly Licensed and Reinstated

Dr. Urbin made a motion, seconded by Dr. Little, to approve the following newly licensed practitioners:

Timothy John Arenten
Tamala L. Beeman
Alicia Caffrey
Paulomi R. Campbell
F. Barton Evans, III
Julie Anne Gersch
James K. Goodlad
Umieca Nicolle Hankton
Lauren Hasty King

Kimberly A. McCullah
Heidi D. Posavac
Mario Lehenbauer-Baum
Katherine Wilds Price
Anne Cobble Saravo
Jennifer C. Stiles
David A. Verhaagen
Ruth E. Wolever

The motion carried.

Dr. Mathis made a motion, seconded by Dr. Urbin, to approve the reinstated practitioners.

Jamie h. Barron, Ph.D.

Martha M. Kennon, Ph.D.

Nicholas A. Sieveking, Ph.D.

Allison Shelton Gunne, P. E.

The motion carried.

Correspondence

The Board reviewed a letter from the Tennessee Colleague Assistance Program and determined no action was necessary.

Dr. Loftis stated that the Licensed Professional Counselors Board contacted TCAP regarding a program for their licensees. Ms. Wilkins stated they are in the early stages of working on a proposed contract between TCAP and the LPC Board.

The Board reviewed correspondence from **Leah Miller, Ph.D.** regarding the requirements for continuing education. Dr. Pazar asked if Dr. Miller submitted a certificate. Mr. Hill said Dr. Miller called asking if reading a book constituted face-to-face continuing education. Dr. Urbin said on the APA website if you read a book you have to go online to pass a test which then issues you a certificate as Type I continuing education. Dr. Urbin said if she has a certificate it qualifies as APA Type I continuing education but if she doesn't have a certificate it's a moot point.

Dr. Loftis suggested sending her a letter reiterating what the Board's concerns are and cite that section of the rules pertaining to multimedia courses. Ms. Wilkins asked if webinar continuing education is considered face-to-face. Dr. Mathis said on page 17 of the rules it constitutes on-line continuing education.

Dr. Frank Edwards – when this issue was brought to the board the driving force was what constitutes face to face continuing education. This was to avoid people obtaining all of their continuing education on-line and not having any interaction with other practitioners. He will bring this up to the TPA.

Dr. Loftis said the intent was to require practitioners interact with other practitioners in their field.

Dr. Moore said they are going to have to revisit that policy because the definition of on-line and face to face is clearly evolving. We do a lot of things without being in the same room. You can get an entire university education without stepping foot on campus.

Dr. Edwards said there has been research on that and there was a slight differential in favor of face to face but it was not as large as people thought it would be and will be happy to bring that research to the next meeting.

Dr. Pazar said they have a policy statement requiring face to face continuing education.

Dr. Moore stated he would be willing to take a look at the on-line issue and maybe gather some information so we can discuss those roles.

Upon discussion, Dr. Mathis made a motion, seconded by Dr. Urbin, to send Dr. Miller a letter stating that per the Board's understating of her correspondence she has met the maximum number of permissible multimedia hours and the ten (10) additional hours she obtained by reading a book does not count toward an additional on-line credit. Dr. Mathis asked that the letter include that they appreciate Dr. Miller being proactive in her request as this was not a result of a continuing education audit. The motion carried.

Dr. Pazar stated that she and Dr. Moore would discuss the multi-media conference they attended later on in the meeting.

The board received a request from **Dr. Arianna Boddy** asking the Board to waive the 60 day waiting period for taking the written exam allowing her to take the EPPP prior to the expiration of her provisional license. Ms. Morgan stated that Dr. Boddy waited until two months before her provisional license expired to sit for the written exam, which she failed. Ms. Morgan said the rules state the applicant must wait 60 days before retaking the exam. Ms. Morgan said Dr. Boddy is requesting approval to sit for the written exam before July 15, 2016 at which time her provisional license expires.

Upon discussion, Dr. Mathis made a motion, seconded by Dr. Urbin, to allow Dr. Boddy to sit for the written exam prior to the expiration of her provisional license. The motion carried.

Discuss and take action on renewal of the ASPPB contract regarding the EPPP exam

Dr. Pazar said that in January the ASPPB Board of Directors approved the development and implementation of a second examination, EPPP 2, to test the competency based skills of entry level licensure. Dr. Pazar said it will be a computer based exam and not taken in person. Thinks we need to be aware of the competency movement. We need to determine if were adequately protecting the public or do we need additional protection.

Dr. Pazar said there are a lot of pros and cons to discuss as we move along. There is an opportunity on the web site to volunteer to either an item writer or take the test as it is developed. Dr. Pazar stated she volunteered to take the test.

Ms. Morgan said she would have to research this to see what options the Board has as the statute doesn't specify a step one or two exam. Ms. Morgan said they are going to have to do some research to determine what is entailed in opening up the statute and rules to provide the exam.

Dr. Pazar said at the conference they asked for feedback to send to the Board of Directors. They are open to hearing from practitioners. On the web site they have very specific questions on

what they are thinking about putting it through and where in the training process they want to put the EPPP 2. There is quite a bit to digest and this is a test that was thought of by ASPPB and for members of ASPPB. They said should several states that go forward and require the test a reciprocity applicant would have to take the test.

Ms. Morgan stated the exam will go into effect in 2019 and as ASPPB provides more information on the exam they will be reviewing the information.

Dr. Pazar said there will be a significant additional cost and time frame on the test.

Dr. Loftis said the onus falls back on the programs as the programs are the primary gate keepers and they need to determine competency before people enter at this point and time. Dr. Mathis said as far as APA accreditation there is a standardized competency form which would keep states from dealing with that issue.

Dr. Pazar said the exams are designed to assess the knowledge, EPPP, and skills (EPPP 2) required for licensed practice therefore the candidate must have completed all degree requirements before being allowed to take either exam. Dr. Pazar said candidates must apply for licensure to a regulatory board college that must approve their eligibility to take both exams.

Discuss and take action if needed regarding rulemaking, hearings, rule amendments and policies

Ms. Morgan stated they discussed having two policies she drafted for the Board. Last meeting talked about expert testimony and statute vs rule. Discussed if someone licensed in another jurisdiction should have to have a supervisor to come to the state to give expert testimony or do an evaluation.

This is the policy drafted on the discussion at the last meeting and an application the Board wanted to go with that.

Dr. Mathis stated one point is to require clinical supervision of services performed that the Board is interpreting that it does not apply to an individual giving testimony. Dr. Loftis said he was concerned regarding clinical supervision.

Ms. Morgan the way you addressed it in a conversation you didn't want someone to sit and monitor as to what they were going to testify about. You wanted them to have access to a licensed professional that they could talk to if they ran into ethics issues or issues in reference to Tennessee law.

Dr. Mathis said the policy is using the term in the rules about supervision and are trying to clarify that it is consultation if they are providing expert testimony.

Dr. Moore asked if they could include a licensed psychologist with experience in forensics.

Mr. Morgan said the Board stated at the last meeting that they did not have to have the same area of expertise because they are there to clarify any questions they have regarding Tennessee law and ethics; however, it is open for discuss and changes.

Dr. Loftis said it is for expert testimony for someone coming in to do an assessment and provide expert testimony.

Dr. Moore asked if the expert comes into Tennessee and violates a law or the ethical code is that person held responsible or is the consultant also held responsible.

Ms. Morgan stated they have no jurisdiction over someone who is not licensed in Tennessee. Ms. Morgan said it can be reported to the Attorney General's Office. As far as tying the consultant to that, it's a decision the Board will have to make. It would be a challenge to have consultants support this if they know they are being held responsible.

Dr. Loftis asked about peer consultation. The consultants aren't regarded as being responsible for the actions of the individuals.

Ms. Wilkins reminded the board this is only for twelve days per year. A temporary 12 day authorization to practice in the state.

Dr. Pazar said this is to provide clarity for the person in Tennessee who is agreeing to be a consultant for someone providing expert testimony in the state and not the same as supervision of the clinical work.

Dr. Loftis asked if they had to register with the Board.

Ms. Morgan said yes everything else remains the same, they are just defining supervising.

Upon discussion, Dr. Urbin made a motion, seconded by Dr. Loftis, to approve the policy statement on expert testimony.

Ms. Morgan reviewed the amended policy statement regarding licensees who fail to obtain continuing education as the previous policy statement is outdated.

Ms. Morgan said the original policy indicates the complaint is send over to OGC to do an agreed citation; however, they actually comes from the administrative office. Ms. Morgan said it gives the person the opportunity to resolve the matter before it goes to OGC. If it goes to OGC it becomes an Agreed Order, Consent Order or a contested case which is then reported to the National Practitioner Databank.

Ms. Morgan said the next issue is regarding formal disciplinary charges. Ms. Morgan said the former policy statement indicates their office will file formal disciplinary charges. Ms. Morgan said their office may, or may not, file formal disciplinary charges and has changed the policy statement to reflect that.

Upon review, Dr. Mathis made a motion, seconded by Dr. Urbin, to approved the amended policy statement. The motion carried.

Discuss Investigative Consultant

Ms. Wilkins stated that Dr. Auble, previous Board member, had to wait six month before serving as investigative consultant.

Ms. Morgan said Dr. Davis could no longer serve as she has accepted a new position which created a conflict of interest for her to continue to serve as a consultant which leaves only Dr. Adler as consultant. Ms. Morgan said they review cases four times a year and like to have at least three consultants.

Ms. Wilkins said Kimberly P. Brown, who works at Vanderbilt in Forensic Psychiatry, was recommended by Dr. Davis as a board consultant. Ms. Wilkins said Dr. Brown had one continuing education audit in 2011 in which she was compliant and has no discipline. Ms. Wilkins said she was licensed August 16, 2002.

Upon discussion, Dr. Mathis made a motion, seconded by Dr. Joslin, to approve Dr. Brown for board consultant. The motion carried.

New Board Business

Dr. Pazar said the 2016 ASPPB Annual Meeting is being held in Baltimore, Maryland October 19-23, 2016.

Dr. Pazar said the next meeting is April 27-30, 2017 in Memphis, Tennessee; the annual meeting will be October 18-22, 2017 in Hawaii.

Upon discussion, Dr. Urbin, Dr. Little and Dr. Mathis agreed to attend the 2016 ASPPB Annual Meeting in Baltimore, Maryland.

Other Board Business

Dr. Pazar said it was her understanding that applicants could take the Ethics and Jurisprudence exam upon passing the EPPP exam; however, she had hear from several sources that applicants cannot take the exam until after they complete their hours.

Mr. Hill said Rule 1180-02-.04(2)(a) state that in order to sit for the Ethics and Jurisprudence exam applicants must have satisfied and completed all other requirements; however, in the past they have taken the exam before completing their hours.

Ms. Morgan said they are trying to get back to following what is stipulated in the rules.

Ms. Wilkins stated she would go back and review old applications; however, she thinks this is something that has occurred in the last year.

Social Media Regulators

Dr. Pazar said one of the key points of the presenters is the generational gap. Those that are not native have some concerns and the native do not share these concerns. Dr. Meeks, ASPPB, said we need to be aware that we are in this transition time and need to be open and learning and keep ourselves clearly informed and aware. There are a remarkable number of social media users. Which apps are secure such as Instagram, twitter, skype.

Dr. Pazar said the problems are zero control where they go, contacts can be loss, loss of control, loss of privacy and potential for exposure of health information.

Dr. Pazar said HHS.gov is continually adding information on HIPPA and privacy issues when it comes to PHI. The Regulatory Boards use social media for professional information, licensure application, renewal information and regulatory changes. It benefits for cost control and timeliness of communication and operational efficiency.

Dr. Pazar said potential Problems: Breach, boundary violation, false advertising malpractice, exploitation, dissemination of inaccurate bad information.

Dr. Moore gave an update on the regulatory action stating they gave several recent court cases that are involved with title law, freedom of speech. After reading one case he contacted Ms. Morgan for clarification. Dr. Moore said one case was regarding the use of the term Psychologists. In Texas that's not as defined.

Dr. Pazar said the last day was regarding the products they are developing and discussed the competencies they are going to use for the EPPP 2 exam.

Dr. Moore said the disadvantage is that they are going to have some complaints about the misuse of social media.

Dr. Pazar said the HIPPA issue, security and working with IT is a rapidly involving area.

Dr. Urbin said the medical side is way ahead of us on this. Physician cannot friend patients on Facebook and physicians cannot text each other about patients. They can communicate with a patient by tiger text.

Dr. Urbin CMS requires that the portal which contains medical records must have a percentage of patients to agree to this and access through this. They had lots of people to sign up for it.

Election of Officers

Dr. Loftis made a motion, seconded by Dr. Urbin, to nominate Dr. Pazar as Chair. Dr. Pazar accepted the nomination. The motion carried.

Dr. Urbin made a motion, seconded by Dr. Loftis, to nominate Dr. Mathis as Vice Chair. Dr. Mathis accepted the nomination. The motion carried.

With no other Board business to conduct, Dr. Mathis made a motion, seconded by Dr. Loftis, to adjourn at 12:45 p.m.

Adopted by the Board of Examiners in Psychology on this the 15th day of September, 2016.