

Oregon Board of Psychologist Examiners **Public Session Board Meeting Minutes**

May 17, 2013

Morrow Equipment Company Training Center
3218 Pringle Road SE
Salem, OR 97302

Members Present: Shane Haydon, Ph.D., Chair
Fran Ferder, Ph.D., Vice Chair
Kent. Anderson, Public Member
Sandra Jenkins, Ph.D.
Daniel Munoz, Ph.D.
Anne-Marie Smith, Ph.D.

Excused: James Hendry, Public Member

Legal Counsel: Warren Foote, AAG

Staff: Becky Eklund, Interim Executive Director
Karen Berry, Investigator
LaRee Felton, Program Analyst
Ashlie Rios, Office Specialist

Guests: Opal Bontrager, DAS Accountant
Nancy Taylor Kemp, OPA liaison
Lori Queen, OPA
Christian Wolff, M.A.

INTRODUCTIONS/ROLL CALL

Dr. Haydon called the Board of Psychologist Examiners Public Session meeting to order at 1:11 p.m. on Friday, May 17, 2013, at the Board's office at 3218 Pringle Road SE, Salem, Oregon 97302.

FINANCIAL UPDATE

Opal Bontrager reported the OBPE's current financial information.

MEETING MINUTES

March 22, 2013 Regular Meeting Public Session

Dr. Munoz moved and Dr. Ferder seconded the motion to accept the meeting minutes. Mr. Anderson; abstained. The motion passed.

April 1, 2013, Special Meeting, Public Session

Dr. Munoz moved and Dr. Jenkins seconded the motion to accept the meeting minutes. Mr. Anderson; abstained. The motion passed.

CONSUMER PROTECTION CASES / HEARINGS

Application # 12-93; Complaint #2012-069

Dr. Ferder moved and Dr. Munoz seconded the motion to deny application. Roll Call: Smith-Aye; Anderson-Aye; Ferder-Aye; Jenkins-Aye; Munoz-Aye; Haydon-Aye. The motion passed unanimously.

Cases #2009-035 & 2010-007: Mr. Anderson moved and Dr. Munoz seconded the motion to approve the Stay of Discipline. Roll call: Smith-Aye; Anderson-Aye; Ferder-Aye; Munoz-Aye; Jenkins-Aye; Haydon-Aye. The motion passed unanimously.

Case #2011-031: Dr. Ferder moved and Dr. Munoz seconded the motion to approve the Final Order of Default. Roll call: Jenkins-Aye; Munoz-Aye; Ferder-Aye; Anderson-Aye; Smith-Aye; Haydon-Aye. The motion passed unanimously.

Case #2011-029: Mr. Anderson moved and Dr. Ferder seconded the motion to adopt the Corrective Action Agreement. Roll call: Jenkins-Aye; Munoz-Aye; Ferder-Aye; Anderson-Aye; Smith-Aye; Haydon-Aye. The motion passed unanimously.

Case #2011-063: Dr. Munoz moved and Dr. Jenkins seconded the motion to deny reconsideration request. Roll call: Smith-Aye; Anderson-Aye; Ferder-Aye; Munoz-Aye; Jenkins-Aye; Haydon-Aye. The motion passed unanimously.

Case #2012-054: Dr. Ferder moved and Dr. Munoz seconded the motion to issue a 30 Day Letter. Roll call: Smith-Aye; Anderson-Aye; Ferder-Aye; Jenkins-Aye; Munoz-Aye; Haydon-Aye. The motion passed unanimously.

Case #2012-061: Mr. Anderson moved and Dr. Jenkins seconded the motion to dismiss. All in favor, no opposed, no abstentions. The motion passed unanimously.

Case #2013-001: Mr. Anderson moved and Dr. Smith seconded the motion to dismiss. All in favor, no opposed, no abstentions. The motion passed unanimously.

Case #2013-002: Mr. Anderson moved and Dr. Munoz seconded the motion to dismiss.. Roll call: Smith-Aye; Anderson-Aye; Ferder-Aye; Jenkins-Aye; Munoz-Aye; Haydon-Aye. The motion passed unanimously.

Case #2013-007: Mr. Anderson moved and Dr. Jenkins seconded the motion to dismiss. All in favor, no opposed, no abstentions. The motion passed unanimously.

Case #2013-008: Dr. Ferder moved and Dr. Munoz seconded the motion to issue a 30 Day Letter. Roll call: Smith-Aye; Anderson-Aye; Ferder-Aye; Munoz-Aye; Jenkins-Aye; Haydon-Aye. The motion passed unanimously.

Case #2013-010: Mr. Anderson moved and Dr. Munoz seconded the motion to dismiss. All in favor, no opposed, no abstentions. The motion passed unanimously.

Case #2012-011: Dr. Munoz moved and Dr. Smith seconded the motion to dismiss. All in favor, no opposed, no abstentions. The motion passed unanimously.

Case #2013-012: Dr. Munoz moved and Dr. Jenkins seconded the motion to dismiss. All in favor, no opposed, no abstentions. The motion passed unanimously.

Case #2012-067: Dr. Ferder moved and Dr. Munoz seconded the motion to issue a Notice of Proposed Disciplinary Action and assess a \$1,500 penalty. Roll call: Smith-Aye; Anderson-Aye; Ferder-Aye; Munoz-Aye; Jenkins-Aye; Haydon-Aye. The motion passed unanimously.

Case #2012-068: Dr. Munoz moved and Dr. Smith seconded the motion to issue a Notice of Proposed Disciplinary Action and assess a \$1,500 penalty. Roll call: Jenkins-Aye; Munoz-Aye; Ferder-Aye; Anderson-Aye; Smith-Aye; Haydon-Aye. The motion passed unanimously.

Case #2012-073: Dr. Munoz moved and Dr. Jenkins seconded the motion to issue a Notice of Proposed Disciplinary Action and assess a \$5,000 fine. Roll call: Jenkins-Aye; Munoz-Aye; Ferder-Aye; Anderson-Aye; Smith-Aye; Haydon-Aye. The motion passed unanimously.

Case #2012-053: Dr. Munoz moved and Anne-Marie Smith seconded the motion to issue a Notice of Proposed Disciplinary Action of Reprimand, assess a \$5,000 penalty, and boundaries training. Roll call: Jenkins-Aye; Munoz-Aye; Ferder-Aye; Anderson-Aye; Smith-Aye; Haydon-Aye. The motion passed unanimously.

Dr. Haydon welcomed the Board's new OPA liaison, Dr. Lori Queen. She will be replacing Nancy Taylor Kemp. The Board gave their goodbyes to Nancy and welcomes to Lori.

THIRTY-DAY INVESTIGATION EXTENSIONS

Case #s 2010-110, 2012-040, 2012-072, 2013-004, 2013-005, 2013-009, & 2013-011.

Mr. Anderson moved and Dr. Ferder seconded the motion to extend the Consent Agenda cases by 30 days. All in favor, no opposed, no abstentions.

ADMINISTRATIVE RULES

(Rule Caption: Modifies definitions, applied psychology educational requirements, application procedure, inactive status, and supervised work experience requirements.) Ms. Felton reported that the Notice of Proposed Rulemaking was filed and sent on 3/4/13. Public comments were received, and the OPA requested a hearing on 4/18/13. A Notice of Proposed Rulemaking

Hearing was filed and sent 4/30/13. The hearing will be held on Monday, June 24th, 2013 at 10 a.m. at the Board's office location. Dr. Haydon mentioned that it doesn't require the board members be present and active but that he would like for the board to be there. Mr. Foote noted that it is a public hearing and anybody who couldn't make it wouldn't be excluded because they will be available to all the information. It is not interactive but more to listen and gain knowledge.

OPA TOWN HALL

Dr. Ferder, Dr. Haydon, Dr. Munoz, and Dr. Smith served on a panel at the Town Hall and answered questions from those who had concerns about therapy and confusion with the current rules and recent changes. Dr. Munoz explained the main rule concerns; they received great feedback from the consumers. Dr. Ferder believes a lot of questions were cleared up and it is less of a concern now.

LEGISLATIVE UPDATE

Ms. Eklund reported the OBPE House Bill 2081 was passed and signed by the Governor, taking affect 1/1/2014. The Board's budget was also passed by the Senate but there were 3 senators that voted no, Boquist, George, and Olson. The Board would like feedback as to why they voted no and what their concerns were.

Ms. Eklund reported that there is a bill moving through legislature that looks like it will pass, and it will give the Board the authority to require continuing education on cultural competency. Oregon Healthy Authority would set up providers to develop courses that will be acceptable. This will be discussed further at the next Board meeting.

OPA LIAISON

Lori Queen commented on her role between the OPA and OBPE. She was OPA president a few years back and her goal as the new liaison is to work on the relationship between OPA and BPE. She comes in with a history for both OPA and OBPE. Dr. Haydon is the new BPE liaison for OPA and he agrees with the journey of the two organizations working closely together.

PUBLIC COMMENT

Nancy Taylor Kemp and Lori Queen spoke to the Board. They thought the OPA Town Hall went very well. The public believes that the language in proposed changes to administrative rules is still an issue, and that OBPE should use the language of "may include but are not limited to" because they feel that it could cause an issue in cross examination in court. The OPA is in full support of the ASPPB *ePassport*; they think that it is a great way to monitor discipline. OPA is also in support of the cultural competency bill moving through the Oregon legislature.

Mr. Christian Wolff, M.A., pointed out that he is the only citizen that comes to board meetings; he is concerned about that. Mr. Wolff thinks that board member turnover is a bit skewed and that there is a chance of 7 out of 9 new people to be appointed to the Board in 9 months; that seems dangerous to the public. Mr. Anderson interjected that the Board doesn't regulate terms or appointments; it is up to the Governor and the legislature. Mr. Wolff's stated that he feels the public session meetings are too short and that the public is in the dark because of this. He

wondered where the important matters are being discussed or if they are being adequately reviewed since he does not hear them in public session. Mr. Anderson again addressed Mr. Wolff's concerns and explained that most of the Board's conversations, deliberations, and discussion take place in executive session because they are mostly complaints that are not open to the public. Mr. Wolff expressed concern that the public is not aware of psychologist associates and is confused as to what is required for this type of license.

APPLIED TRACK TO LICENSURE

Dr. Ferder gave a brief history of the former Education Committee that drafted the applied track to licensure. She suggested that the Board reconsider this track. Dr. Haydon recommended that the issue be sent back to the Education Committee for review and then to the Law & Rules committee. Dr. Munoz questioned whether or not it served the public in any way and if it served the profession to have in rule. The committees will review this track to licensure and report back to the Board at the next meeting.

BOARD ROLES/ELECTIONS

Dr. Munoz nominated Dr. Ferder for Chair; Dr. Smith seconded the motion. No other nominations were placed. Vote: all in favor; no opposed. Dr. Haydon nominated Dr. Munoz for Vice-Chair, Mr. Anderson seconded. No other nominations were placed. Vote: all in favor; no opposed. Elected chair and vice-chair will officially begin their positions at the July Board meeting

Dr. Ferder spoke regarding the 'newness' of this Board and that there won't be much history once the few older ones are gone. Dr. suggested to Kendall Clawson in the Governor's office that Dr. Haydon stay on the Board for at least another year because of his history and to help the transition between new members and the few older ones. This was approved, and Dr. Haydon agreed to continue to volunteer his time to the OBPE. New appointment confirmations will take place May 29, 2013 which include the reappointment of Dr. Ferder and appointment of new board members, Dr. Patricia Bjorkquist and Devin Salinas.

FOREIGN EDUCATION CREDENTIALS

Dr. Jenkins reported and did the research regarding this topic with APA and the National Register. Foreign applicants can apply to the National Register of Psychologists and the National Register will do all of the initial registration work for us. The Board is not bound by this credentialing body's decision on their education and could still evaluate their education and approve or deny the application for licensure.

Mr. Anderson reminded the Board of the ASPPB conference that he and Ms. Felton attended regarding the ASPPB Plus Program that is an integrated application process between ASPPB and OBPE. ASPPB they will process foreign applications based on the requirements that we give them, which would come from our rules. It is still in the pilot project part of the program with four jurisdictions, but it is a great idea to use a national level credentialing body rather than our Board staff who don't have the expertise or the time to review foreign degrees. This could save money and free up the Board staff to do other necessary duties; however, it will cost the applicants a lot more money because they are paying ASPPB fees and OBPE fees.

The Board took a short break and reconvened at 2:54 p.m.

JULY MEETING DATE

Dr. Ferder is not able to attend the July 19th Board meeting. This is an issue because this is when Dr. Ferder will take the responsibilities as Board chair. The Board discussed and decided to change the meeting to Friday, July 12, 2013.

TELEPSYCHOLOGY

Dr. Munoz started the conversation that the Board should establish rules regarding telepsychology for licensed psychologists. He had some issues with the *ePassports*. His concerns are that they would handle the appeals process and he is concerned with giving up our jurisdiction to ASPPB. The other concern is that the state in which the licensee is licensed will have to front the cost of the investigations, even if the allegations happened in other states. This could cost Oregon money if one bad apple goes to multiple states practicing. The overall discussion is if the Board is in support the idea before we get in to the semantics. The Board believes that the Education Committee will need to review this further.

Nancy Taylor Kemp knows of an OPA committee that is fairly new and will put Spencer Griffith in contact with Dr. Munoz to discuss this topic. The OPA committee will work with Dr. Munoz and write a report for the July meeting. States that support this and already have a statute or a rule in place are California, Kentucky, Georgia, Idaho, Kansas, New Mexico, Mississippi, Montana, North Dakota, Ohio, South Carolina, Tennessee, and Vermont. Oregon has not taken a position; it would take legislative action to allow telepsychology.

VOTE TO APPROVE LICENSES

Dr. Ferder noted that licensees who went to non-APA schools had considerably lower EPPP scores. Dr. Munoz moved and Dr. Smith seconded the motion to approve the licenses issued since the last board meeting. All approved; zero opposed. The motion passed unanimously.

STATISTICS

Ms. Felton reported on board statistics for licensure and consumer protection cases.

Licensure

40 new applications have been received and 36 licenses have been issued in 2013. There are currently 1674 total licensees, including 1300 active, 199 semi-active, 171 inactive, 3 on probation and 1 suspended.

Consumer Protection

21 complaints have been filed in 2013. There are currently 36 open cases under investigation (including the investigation files scheduled for Board consideration), with 1 in the contested case process. Of the open cases under investigation, 22 are regarding licensed practice, 3 are regarding applicants, and 11 are regarding unlicensed practice.

SEATTLE TIMES ARTICLE

Dr. Ferder called attention to a *Seattle Times* article about Stuart Greenberg. Dr. Ferder knew him personally and knew he was highly recognized. If someone went to him they used his word as the final word. The licensing board in Washington State dismissed a lot of things that they shouldn't have and looked the other way when they saw things happening. Dr. Munoz thought that it was sloppy work on Washington Board's part and allowed him to overturn his disciplines and have his records sealed because of the Board's staff mistakes. The Washington public was not made aware or warned of what he had done in the past. This article is a great example of being careful with our work and not letting this kind mistake happen in Oregon.

The Board took a short break and reconvened at 3:30 p.m.

SARAH MILLER

Dr. Haydon and Dr. Ferder asked Sarah Miller to speak to the Board. Ms. Miller is the Deputy Chief Operating Officer at the Department of Administrative Services, which oversees state agencies, executive directors, and board operations. She gave a brief history of the Board's past and current directors and now a proposed plan to go forward. Ms. Miller asked if the Board would be willing to take our executive director's position down, merge with another board and share their executive director and administrative duties.

The proposal is to increase one executive director position and decrease the other to a management analyst and merge the two boards to share the administrative duties through an interagency agreement. The other agency would be the Oregon Board of Counselors and Therapists. Ms. Eklund, Dr. Haydon, and Dr. Ferder have met with Ms. Miller and our representatives at DAS to explore this pilot. Ms. Miller believes that this merger could start shortly after July 1 if both Boards agree to the proposal. We would need to recruit for the management position. Ms. Eklund added that we have begun rewriting the position descriptions. Right now the two Boards have two different legal counsels, two revenues, two budget analysts and that we would try and combine the two so that there was only one in each area. The proposal would not merge or change the statutory authority of the Boards. Dr. Jenkins likened the proposal to be like having a roommate or housemate situation but not a marriage. The Governor's office does not want to eliminate any roles/positions but rather have the opportunity to collectively use each others' resources and create greater operational capacity.

Mr. Anderson expressed concern about efficiency and accessibility to the executive director or manager and didn't like the idea of sharing two people. He proposed that the two Boards share one top executive director but have their own policy, budget, management position. Ms. Miller didn't disagree but noted that Mr. Anderson's idea would force the Board to open an additional position which comes with additional payroll at a high level director. Dr. Ferder asked what would happen if the Board chooses to not accept the proposal. Ms. Miller knows the Governor's office will continue to bring board-merging bills to Legislature. A pilot project merging two boards would help us learn if we change the way Board's get operational support in a way that has shared benefits and is cost cutting, but does not change the board's duties or staff.

Dr. Haydon noted that the Board fears becoming part of a super Board and losing autonomy or identity. We should take the step in starting our own Boards now that we can say what happens

and what we want instead of waiting for someone else to decide. OPA doesn't know the LPC Board and doesn't know how their policies would work, which gives some concern. As a professional organization they like to have a relationship with the person who manages policy.

Ms. Eklund and Mr. Foote both commented that the policies are similar but because the Boards will still remain separate their policies would stay the same. Mr. Foote believes that this should be noticed properly and that it should be an agenda item on the next board meeting for an official vote. A decision needs to be made quickly. Ms. Eklund doesn't feel comfortable with the current arrangement, and it doesn't benefit either Board to continue to split her time between two boards. The management assistant position is not someone you would send to the legislature or someone who you would ask to supervise employees or work outside of their scope of practice so that classification may have a large number of able candidates.

Dr. Smith doesn't feel that the Board should make a quick and hasty decision because of the fear of Ms. Eklund leaving because this decision will affect the Board for years to come.

Mr. Anderson didn't appreciate the way the proposal was sprung on him, and he was battling with his own personal opinions while also trying to participate as an active public member. He thinks that he should have been aware of the idea before the Board meeting so that he could have contemplated the idea. He also didn't feel that Ms. Miller was open to new ideas and doesn't believe that if this pilot doesn't work it will be as easy to back out.

Mr. Foote reminded the Board that during the current legislative session there have been bills proposed that would merge boards. There will be another bill that comes up in the 2014 legislative session. We don't know what that will look like, and we hope that it won't be a mega board because it would be a loss to the profession.

Dr. Munoz views the proposal as an option to have some control and believes that trying something different may not be a bad. Mr. Anderson feels that the Board's responsibility to the executive director are enough to require a full-time director rather than splitting and continue to feel under staffed. Having half of a manager and half of an intermediate staff is a way that the Governor's office will start chopping employees, but the overall feel is to decrease our administrative staff instead of increasing it and continuing the shortage we have had for the past few years.

The Board decided to hold a special board meeting scheduled for May 30, 2013 at 1p.m. at the Board's office to further discuss this matter.

ADJOURN

Dr. Haydon called the Board of Psychologist Examiners public session meeting to a close at 4:56 p.m. on Friday, May 17, 2013, at the Board's office at 3218 Pringle Road SE, Salem, Oregon 97302.