



Oregon

John A. Kitzhaber, MD, Governor

Oregon Board of Psychologist Examiners

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Public Session Board Meeting Minutes

Strategic Planning Session · September 29, 2012

**Metro Regional Center
600 NE Grand Ave. · Room 501
Portland, OR 97232**

- Members Present:** Shane Haydon, Ph.D., Chair
Fran Ferder, Ph.D., Vice Chair
David Wade, Psy.D.
Kent Anderson, Public Member
Roger Carlson, Ph.D.
Linda Sherman, Ph.D.
Daniel Munoz, Ph.D.
- Excused:** James Hendry, Public Member
Lawanda Manning, Public Member
- Legal Counsel:** Warren Foote, AAG
- Staff:** Randy Everitt, Interim Executive Director
Karen Berry, Investigator
LaRee Felton, Program Analyst
- Guests:** Nancy Taylor Kemp, Ph.D., OPA Liaison
Christian Wolff, M.A.

Call to Order

Dr. Haydon called the Board of Psychologist Examiners meeting to order at 9:14 a.m. on Saturday, September 29, 2012, at the Metro Regional Center at 600 NE Grand Avenue, Room 501, Portland, Oregon 97232.

I. Board Roles and Governance

Mr. Everitt explained that the role of Board members can be surprising to many. The only reason that boards exist is to protect the public. The purpose is definitely not to advance the profession, although this may be a byproduct of the Board's work. Board members need clear guidelines to keep themselves safe, and to keep the public safe. The work of board members as citizen volunteers is appreciated by the governor's office. This Board is a "governing" Board, meaning the Board has final say on all the decisions made, unlike other boards which are advisory only and where the director has the ultimate say. If a member feels the executive director is untrustworthy, not performing to standard, or is

abusing staff, they should immediately report to DOJ or to the governor's office. Board members should vote their consciences and speak their minds, but at the same time should not be obstructionists. Don't be alarmed if you have a complaint filed against you, it happens frequently. Mr. Foote added that the materials regarding board member roles should be reviewed by members as a refresher. Use discretion when discussing issues of the Board to members of the public, and that your personal opinion will be taken as the opinion of the Board.

Mr. Everitt cautioned members to be wary of being lobbied individually by those with an agenda. Many process questions, such as those about the application procedure, should be referred to staff. Board members cannot be experts on all of the requirements. How a Board member represents him or herself is important, for example, if approached by legislators or asked to testify. Also, in the past decisions made by Oregon board members, particularly when voting on rulemaking that negatively affects public members, have resulted in physical attacks on individual members. Board members should immediately contact the executive director, who will enlist the assistance of the state police, if anything like this happens.

Mr. Everitt also discussed staff roles and the fact that the Board is working with minimal staff who have been stretched very thin in recent times. The Program Analyst has been doing most of the duties of the Executive Director, and the roles need to be rebalanced out. Staff needs to work within the scope of their job classification, or else be compensated or reclassified if they are working above their class.

Suggested committees of the Board include a laws and rules committee, an education committee, and a consumer protection committee. Committees are there to help staff work out issues they are encountering and to take on projects in their subject areas. They assist staff in doing preparatory work before the full Board meeting, and make specific recommendations. The Board confirmed the importance of the work of the Consumer Protection Committee in reducing the workload of the full Board at each meeting. Also, the Licensing Committee will be of great assistance to the Program Analyst when there is uncertainty around an atypical licensure file. Committee formation will be conducted at an upcoming special public meeting, date to be determined.

II. Investigations

Investigative Protocol

Mr. Everitt discussed the investigative protocol at OBPE. Not all investigations are conducted the same way; it varies from agency to agency. Mr. Everitt has set up a new process where he reviews all complaints when they come in, and if an investigated is warranted, he approved it to have a case number assigned and a file opened by the Office Specialist. The Board agreed that cases which do not warrant an investigation should not be pursued. The office will reply to the complainant to let them know. The Board has delegated the authority to the Executive Director to review complaints, but not to make decisions on complaints upon which the Board can act. Only the Board will decide whether a complaint describing a violation of the practice act (such as an ethics complaint) is merited. The Board discussed the need to clarify the rule that describes the criteria used to reject a complaint filed with the Board.

The Board agreed that it is unfair to require the staff investigator to investigate complaints filed against Board members, who are essentially their bosses. The Board's Executive Director, or alternatively an outside investigator, should investigate those complaints. If it looks like the complaint may be merited, and to avoid the appearance of prejudice, the Board should employ the work of an outside consultant to provide expert advice. Staff members do have recourse (may complain) if they feel they are retaliated against by a Board member.

Form Letters

The Board discussed the importance of crafting form letters so they do not have too harsh of a tone such that the recipient will be alienated or disrespected. Particularly letters that deliver bad news, for instance when a complaint has been filed against a person or the applicant does not qualify for licensure. The approach should be compassionate but still deliver the required information. Dr. Wade agreed to review some of the form letters used regularly by staff and provide feedback.

Operational Process of Case Discussion

The Board discussed the operational process for case discussion, and whether it would be a good idea to have a documented process rather than unorganized discussion. Mr. Everitt emphasized the importance of each Board member having the statute and rule book (including the ethical principles) in front of them for reference during case discussions. Ms. Berry discussed her uncertainty of how much of her own opinion should go into a report, and whether she should be suggesting ethical principle violations or allow the Board to find those on its own. She prefers just presenting the facts to the Board and allowing the Board to funnel the those facts. Mr. Everitt explained that it is important for staff to guide the Board through the allegations and to report observations.

III. Rules Review

- The Board discussed a draft rule modification which would change the educational requirements for applicants from regionally accredited, provincially/territorially chartered, or foreign programs to allow applicants who lack sufficient coursework in the core and clinical content areas to complete limited "makeup" coursework outside of the degree granting program. It was decided that the issue would be held off and discussed again at a special meeting to be scheduled.
- The Board discussed a draft rule modification which would change the coursework requirements of OAR 858-010-0010(3) for psychologist applicants from regionally accredited, provincially/territorially chartered, or foreign programs. It was decided that the issue would be held off and discussed again at a special meeting to be scheduled. Ms. Felton will discuss a potential rule draft with the former members of the Education Committee (Dr. Sherman and Dr. Carlson).
- The Board discussed a draft rule modification which would allow certain psychologist applicants licensed for at least 15 years to meet the EPPP (national) exam requirement if they previously passed the exam based on the original licensing board's standards. Moved: Anderson; Second: Sherman. **Action: Approve permanent rule to be**

noticed & temporary rule to be filed. In Favor: Unanimous; Opposed: None; Abstention: None.

- The Board discussed a draft rule modification which would change the educational requirements for psychologist applicants from regionally accredited, provincially/territorially chartered, or foreign programs to require a minimum of 30 semester hours or 45 quarter hours of credit in graded (not "pass-no pass") courses. This is currently required of psychologist associate applicants only. Moved: Anderson; Second: Carlson. **Action: Approve permanent rule to be noticed & temporary rule to be filed.** In Favor: Unanimous; Opposed: None; Abstention: None.
- The Board discussed a draft rule modification which would apply relevant former requirements (prior to the 9/27/11 rule change, applicable to in-residence, supervised work experience, and coursework) to students who enrolled in their program prior to a particular date, or who began their coursework prior to a particular date. It was decided that the issue would be held off and discussed again at a special meeting to be scheduled.
- The Board discussed a draft rule modification which would clarify the period of time after which a candidate for licensure must re-take and pass the jurisprudence examination. Moved: Anderson; Second: Sherman. **Action: Approve permanent rule to be noticed & temporary rule to be filed.** In Favor: Unanimous; Opposed: None; Abstention: None.

IV. CE Review

The Board briefly discussed the current Continuing Education (CE) requirements for licensees, and reviewed the ASPPB Guidelines for Continuing Professional Development (June 2012). There is a need to maintain the high standard, but the Board also recognizes that there is a changing technological environment. The Board ultimately decided that the task of performing a full review of the CE requirements should be delegated to the soon-to-be created Education Committee, who will report back to the full Board with recommendations.

V. Tele-Psychology

Dr. Carlson led a discussion of tele-psychology, mentioning two recent ASPPB conferences and a recent OPE workshop on the issue. Board staff has reported frequent questions coming to the office on this topic, and the need for having guidelines available to the public. Legal implications are very important in this area- who has jurisdiction, and when and where what a practitioner is practicing in a particular state. The important question seems to be where the recipient of the services is present at the time the services are delivered. There is the idea of an "inter-jurisdictional practice certificate" via ASPPB that would allow a person to practice in a participating state for 30 days. Mr. Foote noted that there are complex legal issues surrounding the idea of allowing a person to come into Oregon and practice under reciprocity. The Board decided that the issue of mobility should be further explored by the soon-to-be formed Laws and Rules Committee.

VI. Use of Touch as an Intervention

Mr. Foote explained the rulemaking process as a tool for setting standards in this area, and also the application of case precedence. The Board discussed the difficulties in setting concrete standards surrounding the use of touch. There is a need to document the purpose and goals in any type of intervention used, and informed consent is important. The Board concluded that a volunteer member, to be determined, will write a newsletter article on the issue of use of touch in intervention.

Adjourn at 3:51 p.m.

Respectfully Submitted:

Becky Eklund, Interim Executive Director

Date