



THE EXAMINER

Summer 2015 Edition

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Executive Director's Report

Written by: Charles Hill

As the new Executive Director for the Board of Psychologist Examiners and the Board of Professional Licensed Counselors and Therapists, I would like to reflect for a moment about what it's like to wear two hats and to manage the pilot project that was developed back in 2013 to bring the two Boards together. I started my new position in March 2015 and was informed during the interview process that if selected for the position, I would be managing two Boards under a pilot project initiated by the Governor's office.

What is it like to direct two State behavioral Boards? The simplest way to describe it is that it is like trying to speak two different languages at the exact same time. Although each Board has some similarities, the fact is, is that the Boards are quite different in the ways in which they operate. Both Boards are similar in that they exist to protect the consumer. Basically, that is where the similarities end. The two Boards are very different in the way that they are administered. The two Boards have similar, yet different Rules. The two Boards have different intern and licensing requirements. The two Boards have different ways of collecting fees and different systems for depositing revenues into the bank. To some extent, the two Boards pay their bills differently. The two Boards have different database systems for tracking licensees and for monitoring compliance. Each Board has its own individual strengths and its own individual challenges. To summarize, each Board has its own individual ways of conducting business, and its own separate language and sets of operating procedures and systems. Is this an easy and efficient way to run two Boards? NO!

My plan moving forward is to keep the efficiently operating procedures and systems, and to eliminate the outdated and cumbersome procedures and systems. My goal is to unify the two Boards as much as possible administratively, while keeping the identity and integrity of each Board intact. My goal in essence, is to streamline and share systems between the two Boards, and to speak one language administratively.

The leadership of the two Boards met in June of 2015 with the Governor's office to review the Interagency Agreement that spells out the details on how the two Boards can consolidate administratively. The Chairs of both Boards have signed on to continue this pilot project for the 2015-2017 biennium. The two Boards will share the same Executive Director (Charles Hill), and the same Operations Manager.

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Ms. LaRee Felton from the Psychologist Examiners Board has agreed to accept the position of Operations Manager effective June 2015. Ms. Felton, who has a firm grasp of the analytical systems of both Boards, will be assisting me in developing and implementing a unified set of systems for both Boards. By the end of the 2015-2017 biennium, both Boards will be utilizing the same processes and systems from top to bottom. We will speak one language administratively. To accomplish this of course will require some strategic planning. My hope is that we will be able to provide better services to our licensees while at the same time better protection to the consumer. Ψ

“Plans are nothing, but planning is everything”
-Dwight D. Eisenhower

Telepsychology

Telepsychology is an emerging area that has been a topic of discussion at the Board for some time. The American Psychological Association (APA) defines telepsychology as “the provision of psychological services using telecommunication technologies.” Currently in Oregon, telepsychology is not prohibited, and there aren't any specific laws or rules governing telepsychology practice. This article is intended to provide some general guidance around telepsychology from the regulatory perspective. As with any area of practice, the Board will thoroughly investigate allegations of misconduct on a case-by-case basis. To date, we have no record of any complaints related to telepsychology being investigated. Notwithstanding, Board staff are frequently asked for guidance because of uncertainty among licensees and various stakeholders.

Jurisdictional Legal Requirements.

The regulatory landscape across the states is constantly changing, so it is difficult to keep track of where the other states are with telepsychology. Many states have issued statements or guidelines, while some have regulations that specifically address telepsychology practice. Some simply define it, or specify that it is included within the practice of psychology, while a few others set specific practice parameters. For example, California and Kentucky require that the practitioner obtain specific informed consent. Delaware's detailed regulations also require that licensees establish and maintain current competence in the professional practice of telepsychology, decide to use telepsychology on a case-by-case basis and conduct a risk-benefit analysis, and develop a written emergency contingency plan.

To practice across state lines- including telepsychology- some states offer a permit, temporary license or similar authorization which allows the psychologist to practice in that jurisdiction for a limited amount of time. In Oregon, we offer a “visitor's permit” to provide psychological services for a limited, specific purpose for no more than 30 days within a 12 month period. Commonly a permit is requested when a client relocates to Oregon and therapy continues via electronic means until the out-of-state psychologist is able to transition the client to another provider. Hawaii, Illinois, Indiana, Texas, Vermont and Washington are also examples. Georgia, Idaho, Ohio, and a few other states accept an Interjurisdictional Practice Certificate (IPC) issued by the Association of State and Provincial Psychology Boards (ASPPB). The IPC is a temporary authorization for a fee to practice psychology in the accepting jurisdiction for at least 30 days in a year. Other states such as Alabama, California, Delaware, Florida, Georgia have created guest provisions which allow out-of-state psychologists to practice within the state for a limited time without a license.

There are other factors to consider in other states, including variations in abuse and mandatory reporting obligations, duty to warn, legal title usage, psychotherapist-patient privilege, and laws surrounding guardianship and services provided to minors. Clearly, the laws and rules vary significantly between the jurisdictions, so it is crucial that psychologists are aware of and comply with the regulatory requirements in the other state. Violating another jurisdiction's regulations- including the improper or unlicensed practice of telepsychology- may be found by OBPE to constitute immoral or unprofessional con-

Telepsychology, cont...

duct and subject to Board sanction. You will need to contact the out-of-state licensing authority before providing services to any client located in another state

Ethical Considerations.

Psychologists should always refer to the ethical principles and code of conduct when considering a course of action. The same standards of care apply to services rendered in-person or through telepsychology. This is by no means an exclusive list, but these are some of the more important considerations for telepsychology.

- **Boundaries of Competence (2.01):** Does your education, training, supervised experience, consultation, study and/or professional experience qualify you to engage in telepsychology services? Have you taken reasonable steps to ensure competence in this emerging area? Psychologists also need to ensure that they maintain competence (2.03) in a constantly evolving technological environment. It is recommended that you keep current with professional literature, research, and guidance materials available.
- **Bases for Scientific and Professional Judgments (2.04)**
 - What is the most appropriate medium?
 - Have you thoroughly assessed the potential benefits and limitations of the technology?
 - Do you know how to use the technology, or would you benefit from training/research?
 - Are you prepared for technological glitches?
 - Have you considered the benefits and risks to the particular client? This includes the location, mental or medical conditions presented, financial considerations, personal preferences, and multicultural issues.
- **Informed Consent (3.10, 9.03, 10.01)**
 - Does the client fully understand the risks? (e.g. hackers, security risks)
 - Have you explained the limits to confidentiality?
 - Does the particular client understand the language and technology (considering factors such as age, education, computer savvy, etc.)?
 - Can you ensure that the person receiving services is actually the client?
- Have you considered how the limits to confidentiality might be different in the recipient state?
- Have you included the form of third party information sharing and release?
- Do you have a current, up-to-date privacy statement?
- **Privacy and Confidentiality (ES 4; 6.02)**
 - Is the technology secured (both storage and disposal)? Do you pose, or have access to, the technical expertise to ensure this?
 - Are your portable electronic devices secure (encrypted, password protected, firewalled)?
 - Do you have sufficient virus and malware protection?
 - Are your staff/trainees appropriately trained?
- **Record Keeping (ES 6):** Have you thoroughly documented your case-by-case client risk-benefit analysis; research and consideration of technological choices; evidence of effectiveness; education, research, training, experience, and consultation related to the technology; and planning efforts?
- **Avoiding Harm (3.04)**
 - Will the service be appropriate and effective for the client? This should be reassessed routinely.
 - Should an in-person initial session take place?
 - Are in-person services comparable or preferable?
 - Are telepsychology services safe considering the client's situation? For example, is the client prone to crises?
 - Have you identified emergency, referral and support resources in client's locale?
- Have you planned for contingencies?

Resources

- [Guidelines for the Practice of Telepsychology](#) (2013), developed by a Joint Task Force of ASPPB, APA and APAIT
- [The American Telemedicine Association's](#) practice guidelines and toolkit
- Information about the [ASPPB Interjurisdictional Practice Certificate](#) (IPC)
- ASPPB's [Psychology Interjurisdictional Compact](#)

Telepsychology, cont...

- (PSYPACT) (2015)
- Oregon Board of Licensed Professional Counselors and Therapists' Distance Counseling Rules ([OAR Chapter 833, Division 90](#))
- Ohio Psychological Association's [Telepsychology Guidelines \(2010\)](#)
- Ohio State Board of Psychology's [Telepsychology Rules \(2011\)](#)
- Behavioral Health Innovation's [Telemental Health Therapy Comparisons](#)
- TeleMental Health Institute's [Video Companies Claiming "HIPAA Compliance" Ψ](#)

Enforcement Actions

Wayne C. Palmer, Ph.D. (#701), **STIPULATED ORDER**, effective March 20, 2015. Client A: Licensee touched and used physical force to restrain Client A on multiple occasions to prevent her from leaving his office in a dissociated state. The Board found that licensee failed to effectively treat Client A or to take appropriate action after Client A refused his recommendation for referral or hospitalization. Licensee violated professional boundaries by driving Client A home in his personal motor vehicle on multiple occasions. While under Licensee's care, Client A deteriorated, experiencing repeated severe panic attacks, depression, and heightened anxiety. Client B: Licensee provided a letter to Client B suggesting that her PCP prescribe her a benzodiazepine, and stating that he was willing to store the prescribed medications in his office (due to her prior suicide attempt using similar medications) and to provide it to Client B as needed. Licensee also acknowledges that he stored some prescription medications for 3 – 4 other patients and that he gave those medications to the patients upon their request. Licensee admitted that he engaged in this conduct, and that it violated ORS 675.070 and Ethical Standard (ES) 2.01 (Boundaries of Competence), ES 2.04 (Bases for Scientific and Professional Judgments), ES 3.04 (Avoiding Harm), ES 3.05 (Multiple Relationships), and ES 10.10 (Terminating Therapy). Licensee was reprimanded, ordered to practice under supervision for a minimum of three years, and required to pay a \$5,000 civil penalty.

Benjamin J. Dunagan, Psy.D. (#2333), **STIPULATED ORDER**, effective March 20, 2015. Licensee informed the Board that he engaged in sexual relations in 2013 with an adult female client (Client A) during two therapy sessions while practicing psychology in Colorado, where he was previously licensed. Licensee agreed that this conduct violated ORS 675.070(2)(d)(A) (immoral or unprofessional conduct); Ethical Standard (ES) 3.04 (Avoiding Harm); ES 3.05 (Multiple Relationships); and ES 10.15 (Sexual Intimacies with a Current Therapy Client). Licensee was reprimanded and his license suspended for a minimum of one year. He is required to undergo a comprehensive psychological evaluation and complete any treatment recommendations resulting from that evaluation. Licensee was placed on probation for three years.

Erroll R. (Steve) Stephens, Ph.D. (#580), **STIPULATED ORDER**, effective March 20, 2015. The Board found that Licensee performed an inadequate evaluation and provided a recommendation on visitation and custody when he should have refrained from making a recommendation. He used the MMPI-2 as the only psychometric instrument in his psychological evaluation, and then made his recommendations without checking any of many available collateral sources of information. Licensee admitted that he engaged in this conduct, and that it violated ES 2.01 (Boundaries of Competence), ES 3.04 (Avoiding Harm), and ES 9.01 (Bases for Assessment). Licensee was reprimanded, ordered to practice under supervision for a minimum of one year, and required to pay a \$1,000 civil penalty.

Debra (Kali) A.F. Miller, Ph.D. (#1124), **FINAL ORDER**, effective March 20, 2015. The Board concluded that Licensee's conduct in diagnosing reactive attachment disorder (RAD) in an 11 year-old child and making certain treatment recommendations to the parents posed a significant risk of harm to the child. It was found that Licensee had recommended that the parents of this child implement interventions that did not involve evidence based practices, to include having the father bottle-feed the child, having the child crawl on his tummy like a baby; and having the parents place small treats into the child's mouth to reward good behavior ("baby birding"). She also recommended that the parents have the child sit for a certain time period in a cross legged, straight posture ("strong sitting"). This case came to the Board's attention after the child attempted suicide and was subsequently admitted to a hospital. The effectiveness of these interventions is not supported by professional research/peer reviewed studies. Licensee did not alter her recommendations in the face of evidence that the parents were often using these interventions as punishment. The Board concluded

Enforcement Actions, cont...

that these interventions had potential to cause harm, and more likely than not, did cause psychological harm to this child. Licensee violated ORS 675.070(2)(d) (immoral or unprofessional conduct or gross negligence in the practice of psychology), ES 2.01 (Boundaries of Competence), ES 2.04 (Bases for Scientific and Professional Judgments), ES 3.04 (Avoiding Harm), ES 9.01 (Bases for Assessments), ES 10.01 (Informed Consent to Therapy). The Board had earlier issued an emergency suspension on September 18, 2014 after finding that Licensee's continued practice constituted a serious danger to the public health or safety. Both after the Board issued an Order for Emergency Suspension, and again after receiving Board's Proposed Order of Revocation of her psychology license, Licensee exercised her legal right to seek a hearing before an Administrative Law Judge. Two different Administrative Law Judges found in favor of each of the Board's proposed actions. Therefore, Licensee's license to practice psychology in Oregon was revoked, and she was ordered to pay a \$5,000 civil penalty.

Frank P. Colistro, Ed.D. (#465), STIPULATED ORDER, effective May 22, 2015. Licensee agreed to be interviewed by a KOIN 6 News reporter, and at the end of the interview provided a fictitious account relating to his work as a forensic psychologist in conjunction with law enforcement agencies. He said that he had been shot twice in the line of duty while serving as a member of hostage negotiation teams. He later admitted that this was not true. The news story received considerable notoriety and has led some to challenge Licensee's credibility as a forensic psychologist. Licensee admitted that he engaged in this conduct, and that it violated ORS 675.070(2)(d), ES 2.06 (Personal Problems and Conflicts), and ES 5.01 (Avoidance of False or Deceptive Statements). Licensee was reprimanded and ordered to pay a \$3,000 civil penalty. Ψ

ENCRYPTING YOUR HARD DRIVE

Since computers are not typically psychologists' "first language", the Board wanted to alert licensees to the critical importance of ensuring that your hard drive is encrypted. Even with password protection and encrypted documents, if your computer is stolen, your hard drive can easily be removed and placed into a different computer to complete a breach.

Encryption programs are available on most computers, or can be downloaded and installed. Check with your technical advisor for more information. One good option for PCs is DiskCryptor at diskcryptor.net—and it's free! Ψ

REMINDER!

To qualify for the one-time renewal fee reduction, **you must renew on time**. This means that you must submit your fully completed renewal notice & affidavit form and the correct fee amount by the due date. If your renewal is post-marked after the due date, you will not receive the fee reduction. You will be required to pay the **full renewal fee** plus the \$200 **delinquent fee!** There are no exceptions for timely payment of the reduced fee. **Don't let this happen to you!**

The reduction is effective for renewals due 2015-2016; everyone will have this opportunity once.

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Upcoming Events 2015

August

8/7: Oregon Jurisprudence Examination

September

9/4: Oregon Jurisprudence Examination

9/7: Office Closed for Labor Day Holiday

9/8: Consumer Protection Committee Meets

9/25: **Board Meeting**

October

10/2: Oregon Jurisprudence Examination

10/5: Consumer Protection Committee Meets

November

11/2: Consumer Protection Committee Meets

11/6: Oregon Jurisprudence Examination

11/11: Office Closed for Veterans Day Holiday

11/20: **Board Meeting**

11/21: **Board's Strategic Planning Session**

11/26: Office Closed for Thanksgiving Day Holiday Ψ

Reminders

BE GREEN! Please make sure to update your email address if it changes so that you continue to receive correspondence. If you have not provided one, please do so. Notify us right away- but not more than 30 days- of any change in your public or mailing address, phone, or name using the form available on the Board website.



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with any comments or suggestions. Ψ

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