VIRGINIA
Department of Health Professions

Board of Psychology

Regulatory Committee Meeting

Monday, May 16, 2016, 10:00 a.m.
9960 Mayland Drive, Suite 200, Board Room 1
Henrico, VA 23233

Call to Order – William Hathaway, Ph.D., Chairperson of the Committee

Roll Call

Emergency Egress Instructions

Adoption of Agenda

Public Comment on Agenda Items (5 Minutes per Speaker)

Approval of Minutes of June 16, 2015

Unfinished Business

- Psychological Assessments
- Telehealth Therapy

New Business

- Standards of Practice Review
- Applied Psychology Review

Next Meeting

Adjournment

THE VIRGINIA BOARD OF PSYCHOLOGY
REGULATORY COMMITTEE MINUTES
June 16, 2015

The Virginia Board of Psychology ("Board") Regulatory Committee meeting convened at 10:10 a.m. on June 16, 2015 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Herbert Stewart, Ph.D., Chair, called the meeting to order.

BOARD MEMBERS PRESENT: William Hathaway, Ph.D.
Barbara Peery, Ph.D.
Herbert Stewart, Ph.D., Chair
Virginia Van De Water, Ed.D.
James Werth, Jr., Ph.D., ABPP
Kevin Doyle, L.P.C., L.S.A.T.P., Board of Counseling Board Chair

BOARD MEMBERS ABSENT: Giordana Altin de Popiolek, Psy.D.

DHP STAFF PRESENT: Deborah Harris, Licensing Manager
Jaime Hoyle, Executive Director
Jennifer Lang, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst

ADOPTION OF THE AGENDA:

The agenda was accepted as presented. Dr. Stewart welcomed Dr. Doyle, Chair of the Virginia Board of Counseling for contributing to the discussion on psychological assessments and evaluations.

PUBLIC COMMENT:

There was no public comment.

APPROVAL OF MINUTES:

Upon a motion by Dr. Hathaway, the meeting minutes from January 15, 2014 were approved as written. The motion was seconded and carried.

REGULATORY/LEGISLATIVE UPDATE:

Ms. Yeatts reported that the pending regulatory changes to the Regulations Governing the Certification of Sex Offender Treatment Providers were at the Governor's office awaiting approval.

EXECUTIVE DIRECTOR'S REPORT:

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Ms. Hoyle reported that she will attend a meeting regarding the Sanction Reference Points and will report back to the Board of any updates.

OLD BUSINESS

Psychological Assessments

The Committee discussed psychological assessments as it related to the type of profession that can utilize the term "psychological" for assessments and evaluations. Dr. Doyle contributed to the discussion and offered information from the Virginia Board of Counseling's discussion on this topic. Dr. Doyle did not speak on behalf of the Virginia Board of Counseling, but indicated that it seemed reasonable that only psychologists should use the term "psychological assessments". Other professions, such as counseling, could create a different term for the assessments they conduct. The Committee determined that additional research and possible guidance document should be discussed between the two boards. The Committee tabled the discussion pending the establishment of an ad-hoc committee.

Telehealth Therapy

Dr. Stewart provided information to the Committee on the Psychology Interjurisdictional Compact "PSYPACT", which is an interstate compact designed to facilitate telehealth and temporary face-to-face practice of psychology across jurisdictional boundaries. Dr. Stewart asked the Board to consider this multistate compact license. Following discussion, the Committee determined to table review of compact licensure as it is in the preliminary stages in other states.

Following discussion on telehealth therapy and supervision, the Committee tabled the discussion to the next scheduled Regulatory Committee meeting to allow Committee members to work in groups of two to acquire research for review. Ms. Hoyle agreed to research other State licensure boards and associations regarding the use of social media, client texting and telepsychology use.

Dr. Stewart provided a presentation on the use and etiquette of social media in the profession.

NEW BUSINESS:

Ms. Lang stated the need to update the Standards of Practice as it relates to the Regulations Governing the Practice of Psychology and the Regulations Governing the Certification of Sex Offender Treatment Providers. Ms. Lang requested that the Committee members review the Standards of Practice and provide feedback.

Ms. Lang also requested input from the Committee on the use of the Examination for the Professional Practice in Psychology ("EPPP") as it applies to a Spanish version of the examination. Ms. Lang requested to accept exam scores for the examination effective 2014 as the Association of State and Provincial Psychology Boards ("ASPPB") recognizes the examination scores.

NEXT BOARD MEETING:

The Board is scheduled to meet again on April 27, 2016.

ADJOURNMENT

The Board meeting was adjourned at 4:05 p.m.

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Herbert Stuart, Ph.D., Chair

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Jaime Hoyle, Executive Director

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THE VIRGINIA BOARD OF PSYCHOLOGY
MINUTES
February 23, 2016

The Virginia Board of Psychology ("Board") meeting convened at 10:11 a.m. on February 23, 2016 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Herbert Stewart, Ph.D., Chair, called the meeting to order.

BOARD MEMBERS PRESENT: Giordana Altin de Popiolek, Psy.D.
Deja Lee
Russell Leonard, Ph.D.
Barbara Peery, Ph.D.
Thomas Ryan, Ph.D.
Herbert Stewart, Ph.D., Chair
Susan Wallace, Ph.D.
James Werth, Jr., Ph.D., ABPP

BOARD MEMBERS ABSENT: William Hathaway, Ph.D.

DHP STAFF PRESENT: Elizabeth Carter, Director- Workforce Healthcare Data Center
Sarah Georgen, Licensing Manager
Jaime Hoyle, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Licensing Specialist
Elaine Yeatts, Senior Policy Analyst

BOARD COUNSEL: James Rutkowski, Assistant Attorney General

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MISSION STATEMENT:

Dr. Stewart read the mission statement of the Department of Health Professions, which also is the mission statement of the Board.

WELCOME NEW BOARD MEMBERS:

Dr. Stewart welcomed Dr. Susan Wallace and Deja Lee as new members to the Board of Psychology.

ESTABLISHMENT OF A QUORUM:

With eight members of the Board present, a quorum was established.

EMERGENCY EGRESS:

Dr. Stewart announced the Emergency Egress procedures.

ADOPTIONS OF AGENDA:

The agenda was accepted as presented

PUBLIC COMMENT:

Jennifer Morgan, Psy.D, VPA/VACP liaison, updated the Board about the upcoming Clinical Psychology (VACP) Convention, which will be held April 20-22, 2016 in Newport News, VA and encouraged Board members and Board staff to attend.

Mi-Young Ryee, Ph.D. asked the Board to circulate information on the upcoming training provided by Children's National Healthy System on celiac disease and gluten-related conditions.

APPROVAL OF MINUTES:

Dr. Werth indicated that there were several grammatical errors in the November 10, 2015 minutes. After discussion, it was decided that the meeting minutes from November 10, 2015 meeting will be drafted again and will be considered for approval at the next Board meeting.

DIRECTOR'S REPORT:

Dr. Brown was unable to attend the Board meeting as he was currently attending General Assembly Meetings. Ms. Yeatts indicated that the Department of Health Professions has recommended 15 of the 89 bills that directly affect the agency.

REGULATORY/LEGISLATIVE UPDATE:

Ms Yeatts provide a handout and reviewed a report of bills presented to the General Assembly for 2016.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Hoyle reported that the Behavioral Sciences Unit was currently short-staffed with Ms. Harris on extended leave. She introduced Ms. Georgen and Ms. Lenart, who are working with the Board until Ms. Harris' return. She stated that staff is working with her to improve and streamline the application process.

Ms. Hoyle informed the Board that the Association of State and Provincial Psychology Boards ("ASPPB") conference will be held in May 2016 in Alaska. Ms. Hoyle reported that she has submitted travel requests for Dr. Stewart, Dr. Ryan, and Dr. Werth to attend this conference.

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DISCIPLINE REPORT:

Ms. Lang asked for volunteers for upcoming informal conferences to be held on April 26, 2016. Ms. Lang announced that she will be in contact with Board members for additional informal conference dates for May thru August. Ms. Lang reported there was an increase in the average days to close cases and a decrease in the number of cases closed within a year. She encouraged Board members to continue to review the cases they receive so that the matters can be resolved quickly and reiterated that Board staff cannot close cases without a Board member reviewing the case. Ms. Lang reported that the Board had 13 cases in investigation, 5 cases in compliance monitoring following a Board Order, one case was being prepared for an informal conference, and one possible summary suspension. Ms. Lang reported that there are 72 cases that need to be reviewed for probable cause. Dr. Ryan offered to stay after the Board meeting to review cases.

LICENSING MANAGER'S REPORT:

Ms. Georgen reported that as of the end of Quarter II for the 2016 Fiscal Year (October 1, 2015 – December 31, 2015), the Board of Psychology regulates 8,049 licensees, which included 3,167 Clinical Psychologists; 438 School Psychologists - Limited; 407 Sex Offender Treatment Providers; 99 School Psychologists; and 30 Applied Psychologists. An agency satisfaction survey is sent to applicants for feedback once licensed, and for the quarter ending December 31, 2015, the satisfaction rate for the Board of Psychology was 93.2% (80 new licenses were issued). To decrease the burden and to increase efficiency, Board Staff is working to restructure the applications for licensure by exam, licensure by endorsement, and registration of supervision. The process will eliminate unnecessary documentation that increases the processing time of applications.

REGULATORY/LEGISLATIVE REPORT

In Dr. Hathaway's absence, Dr. Stewart requested the Board members to schedule a Regulatory/Legislative Committee meeting for the near future and asked for there to be collaboration with the Board of Counseling regarding the term "psychological assessments." Dr. Stewart requested Dr. Ryan address the Board's concerns with the Virginia Board of Counseling. Ms. Hoyle stated that she would work as a liaison between the Boards on this issue.

Dr. Stewart also asked the Regulatory/Legislative Committee to review "telehealth" as it would apply to the Board and noted that the ASPPB had information on this subject for use by the Committee.

Dr. Stewart requested further that the Board members review the Standards of Practice of the Regulations Governing the Practice of Psychology to determine if additions or changes would be needed.

Dr. Stewart appointed Dr. Wallace as a new member to the Regulatory/Legislative Committee.

Ms. Yeatts reported that for the upcoming 2016 renewal period, a one-time fee reduction of

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renewal fees would occur. Ms. Yeatts reminded the Board that renewals paid from April 30, 2016 to June 30, 2016 will be reduced from $140.00 to $84.00 for Clinical, Applied, and School Psychologists; $70.00 to $42.00 for School Psychologists Limited; and $75.00 to $45.00 for Sex Offender Treatment Providers. She reminded the Board that any renewals paid after June 30, 2016 would be considered late and the renewal fee would revert back to the normal renewal fee. Dr. Stewart requested that Board staff create an email to be sent to all current and inactive licensees alerting them to this one time change, as well as posting this information on the Board of Psychology homepage.

NEW BUSINESS

Virginia Academy of Clinical Psychologists ("VACP") Letter

Bruce Keeney, Sr., Executive Director and Legislative Counsel for the Virginia Academy of Clinical Psychologists (VACP) submitted a letter to bring to the Board's attention VACP's concerns about representations made by the Virginia Academy of School Psychologists (VASP) that their programs for continuing education credit may count for continuing education credit for clinical psychologists. VACP was concerned that some of the programs were not directly related to the scope of practice for clinical psychologists. After discussion, the Board agreed to take no official action but will have staff inform licensees that they need to be aware of what constitutes an appropriate continuing education course for their particular license. Ms. Yeatts suggested that this point be added to the email blast regarding the reduction of 2016 renewal fees.

Private Practice Closure Documentation

Karen Waters, Ph.D. contacted the Board regarding clarification about records retention following closure of a practice at death of a psychologist. The Board discussed the concern and determined that the Code of Virginia § 54.1-2405 addressed records retention with respect to relocation of a practice. Dr. Worth suggested that the Regulatory/Legislative Committee review this issue to determine if language should be added to the Regulations to address records retention as it relates to closing a practice in the event of a death.

DMAS Presentation

Brian Campbell, Senior Policy Analyst, Behavioral Health Integrated Care & Behavioral Services from DMAS presented to the Board on the Magellan Behavioral Service Administrator Contract, the Governor's Access Plan and Community Mental Health Rehabilitative Services changes. He described some current and pending projects for which they would like input from the Board, including having stakeholders help DMAS better define what services are allowed by licensed versus unlicensed staff members. Ms. Hoyle stated that she will work DMAS to get a plan of action regarding a workforce team.

Virginia's Licensed Clinical Psychologist Workforce: 2015

Dr. Elizabeth Carter presented the Healthcare Workforce Data Center report, which was

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developed from responses to the 2015 online renewal. The report provided baseline information on the working population of Licensed Clinical Psychologist (LCP), including Profession Reports, Virginia CareForce Snapshots, Regional CareForce Snapshots, Student Choice, and Virginia Health Workforce Briefs.

NEXT BOARD MEETING:

The Board is scheduled to meet again on May 16, 2016.

ADJOURNMENT

The Board meeting was adjourned at 1:31 p.m.

Herbert Stuart, Ph.D., Chair

Jaime Hoyle, Executive Director

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Telehealth Therapy

VIRGINIA BOARD OF SOCIAL WORK

Guidance on Technology-Assisted Therapy and the Use of Social Media

BACKGROUND

Social workers are currently engaged in a variety of online contact methods with clients. The use of social media, telecommunication therapy and other electronic communication is increasing exponentially with growing numbers of social media outlets, platforms and applications, including blogs, social networking sites, video sites, and online chat rooms and forums. Some social workers often use electronic media both personally and professionally.

Social media and technology-assisted therapy can benefit health care in a variety of ways, including fostering professional connections, promoting timely communication with clients and family members, and educating and informing consumers and health care professionals.

Social workers are increasingly using blogs, forums and social networking sites to share workplace experiences particularly events that have been challenging or emotionally charged. These outlets provide a venue for the practitioner to express his or her feelings, and reflect or seek support from friends, colleagues, peers or virtually anyone on the Internet. Journaling and reflective practice have been identified as effective tools in health care practice. The Internet provides an alternative media for practitioners to engage in these helpful activities. Without a sense of caution, however, these understandable needs and potential benefits may result in the practitioner disclosing too much information and violating client privacy and confidentiality.

This document is intended to provide guidance to practitioners using electronic therapy or media in a manner that maintains client privacy and confidentiality. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. ***Therefore, the standards of practice set forth in section 18VAC140-20-150 of the regulations and in the Code of Virginia apply regardless of the method of delivery.***

RECOMMENDATIONS BY THE BOARD

The Board of Social Work recommends the following when a licensee uses technology-assisted services as the delivery method:

- *A Social worker providing services to a client located in Virginia through technology-assisted therapy must be licensed by the Virginia Board of Social Work.*
- *The service is deemed to take place where the client is located.* Therefore, the social worker should make every effort to verify the client's geographic location.
- Social workers shall strive to become and remain knowledgeable about the dynamics of online relationships, the advantages and drawbacks of non-face-to-face interactions, and the ways in which technology-assisted social work practice can be safely and

appropriately conducted. Traditional, face-to-face, in-person contact remains the preferred service delivery modality.

- *The social worker must take steps to ensure* client confidentiality and the security of client information in accordance with state and federal law.
- The social worker *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and the security of client information.
- *When working with a client who is not in Virginia*, social workers are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit social work services to a client in the state by an individual who is unlicensed by that state.
- Social workers must follow the same code of ethics for technology-assisted therapy as they do in a traditional social work setting.

ETHICS AND VALUES

Social workers providing technology-assisted therapy shall act ethically, ensure professional competence, protect client confidentiality, and uphold the values of the profession.

TECHNICAL COMPETENCIES

Social workers shall be responsible for becoming proficient in the technological skills and tools required for competent and ethical practice and for seeking appropriate training and consultation to stay current with emerging technologies.

CONFIDENTIALITY AND PRIVACY

Social workers shall protect client privacy when using technology in their practice and document all services, taking special safeguards to protect client information in the electronic record.

During the initial session, social workers should provide clients with information on the use of technology in service delivery. Social workers should assure that the client has received notice of privacy practices and should obtain any authorization for information disclosure and consent for treatment or services, as documented in the client record. Social workers should be aware of privacy risks involved when using wireless devices and other future technological innovations and take proper steps to protect client privacy.

Social workers should adhere to the privacy and security standards of applicable federal and state laws when performing services with the use of technology.

Social workers should give special attention to documenting services performed via the Internet and other technologies. They should be familiar with applicable laws that may dictate documentation standards in addition to licensure boards, third-party payers, and accreditation bodies. All practice activities should be documented and maintained in a safe, secure file with safeguards for electronic records.

BOARD OF SOCIAL WORK IMPLICATIONS

Instances of inappropriate use of social/electronic media or technology-assisted therapy may be reported to the Board, and it may investigate such reports, including reports of inappropriate disclosures on social media by a social worker, on the grounds of:

- Unprofessional conduct;
- Unethical conduct;
- Moral turpitude;
- Mismanagement of client records;
- Revealing a privileged communication; and
- Breach of confidentiality.

If the allegations are found to be true, the social worker may face disciplinary action by the Board, including a reprimand or sanction, assessment of a monetary fine, or temporary or permanent loss of licensure, certification, or registration.

GUIDING PRINCIPLES

Social networks and the Internet provide unparalleled opportunities for rapid knowledge exchange and dissemination among many people, but this exchange does not come without risk. Social workers and students have an obligation to understand the nature, benefits, and consequences of participating in social networking or providing technology-assisted therapy of all types. Online content and behavior has the potential to enhance or undermine not only the individual practitioner's career, but also the profession.

HOW TO AVOID PROBLEMS USING SOCIAL MEDIA

It is important to recognize that instances of inappropriate use of social media can and do occur, but with awareness and caution, social workers can avoid inadvertently disclosing confidential or private information about clients.

The following guidelines are intended to minimize the risks of using social media:

- Recognize the ethical and legal obligations to maintain client privacy and confidentiality at all times.
- Client-identifying information transmitted electronically should be done in accordance with established policies and state and federal law.
- Do not share, post, or otherwise disseminate any information, including images, about a client or information gained in the practitioner-client relationship with anyone unless permitted or required by applicable law.
- Do not identify clients by name or post or publish information that may lead to the identification of a client. Limiting access to postings through privacy settings is not sufficient to ensure privacy.
- Do not refer to clients in a disparaging manner, or otherwise degrade or embarrass the client, even if the client is not identified.

- Do not take photos or videos of clients on personal devices, including cell phones. Follow employer policies for taking photographs or video of clients for treatment or other legitimate purposes using employer-provided devices.
- Maintain professional boundaries in the use of electronic media. Like in-person relationships, the practitioner has the obligation to establish, communicate and enforce professional boundaries with clients in the online environment. Use caution when having online social contact with clients or former clients. Online contact with clients or former clients blurs the distinction between a professional and personal relationship. The fact that a client may initiate contact with the practitioner does not permit the practitioner to engage in a personal relationship with the client.
- Consult employer policies or an appropriate leader within the organization for guidance regarding work related postings.
- Promptly report any identified breach of confidentiality or privacy in accordance with state and federal laws.

CONCLUSION

Social/ electronic media and technology-assisted therapy possess tremendous potential for strengthening professional relationships and providing valuable information to health care consumers. Social workers need to be aware of the potential ramifications of disclosing client-related information via social media or through technology-assisted therapy. Social workers should be mindful of relevant state and federal laws, professional standards regarding confidentiality, and the application of those standards. Social workers should also ensure the standards of practice set forth in 18 VAC 140-20-150 are met when performing technology-assisted therapy.

Virginia Board of Counseling

Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision

The Board's regulations for Standards of Practice (18VAC115-20-130) are prefaced by the following:

The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a *face-to-face relationship. Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*

2. *The counselor must take steps to protect* client confidentiality and security.

3. The counselor *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.

4. *When working with a client who is not in Virginia*, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.

5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

Guidance for Technology-assisted Supervision

The Board of Counseling recommends the following when a licensee uses technology-assisted supervision:

1. Supervision is most commonly offered in a *face-to-face relationship. Supervision that from the outset is delivered in a technology-assisted manner may be problematic in that the supervisory relationship, client identity and other issues may be compromised.*

2. *The counselor must take steps to protect supervisee* confidentiality and security.

3. The counselor *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting supervisee confidentiality and security.

4. Counselors must follow the same code of ethics for technology assisted supervision as they do in a traditional counseling/supervision setting.

5. The Board of Counseling governs the practice of counseling in Virginia. Counselors who are working with a client *who is not in Virginia* are advised to check the regulations of the state board in which a *supervisee is located.* It is important to be mindful that certain states *may regulate or prohibit supervision* by an individual who is unlicensed by that state.

Adopted:
Board of Medicine, February 19, 2015
Board of Nursing, July 14, 2015

Virginia Board of Medicine
Virginia Board of Nursing

Telemedicine for Nurse Practitioners

Introduction:

The Board of Nursing concurs with the Guidance Document adopted by the Board of Medicine for the use of telemedicine in the delivery of medical services for practice by nurse practitioners, as recommended by the Committee of the Joint Boards of Nursing and Medicine.

Section One: Preamble.

The Virginia Board of Medicine ("Board") recognizes that using telemedicine services in the delivery of medical services offers potential benefits in the provision of medical care. The appropriate application of these services can enhance medical care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying medical advice. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telemedicine services. Therefore, practitioners must apply existing laws and regulations to the provision of telemedicine services. The Board issues this guidance document to assist practitioners with the application of current laws to telemedicine service practices.
These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For clarity, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303 and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of telemedicine services in the practice of medicine. The Board is committed to ensuring patient access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;

- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Definitions.

For the purpose of these guidelines, "telemedicine services" shall be defined as it is in HB 2063,[1] which was approved by the Virginia General Assembly as an amendment to § 38.2-3418.16 of the Code of Virginia. Under that definition,

> "telemedicine services," as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.
> Va. Code § 38.2-3418.16 (as amended by HB 2063).[2]

Section Three: Establishing the Practitioner-Patient Relationship.

The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship.

Where an existing practitioner-patient relationship is not present,[3] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[4] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

Specifically, Virginia Code § 54.1-3303(A) provides the requirements to establish a practitioner-patient relationship. *See* Va. Code § 54.1-3303(A).[5]

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[1] HB 2063 amended Virginia Code §§ 38.2-3418.16 and 54.1-3303. HB2063 was passed by the Virginia General Assembly during the 2015 Legislative Session and, if signed by the governor, will become law on July 1, 2015.

[2] The Board reserves the right to revisit these Guidelines and in particular this definition should the General Assembly further alter the statutory definition of "telemedicine services" or authorize the Board to provide a definition of telemedicine or telehealth.

[3] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.

[4] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

[5] By passing HB 2063, the General Assembly amended Virginia Code § 54.1-3303(A), which amendment specifically addresses the establishment of a patient-practitioner relationship for the purposes of prescribing Schedule VI controlled substances via telemedicine services. Once signed by the governor, this amendment will become law on July 1, 2015. All licensees are responsible for ensuring and maintaining compliance with applicable laws.

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Four: Guidelines for the Appropriate Use of Telemedicine Services.
The Board has adopted the following guidelines for practitioners utilizing telemedicine services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Informed Consent:

Evidence documenting appropriate patient informed consent for the use of telemedicine services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telemedicine services (e.g. prescription refills, appointment scheduling, patient education, etc.);

- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Medical Records:

The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection with an encounter involving telemedicine services should also be filed in the medical record. The patient record established during the use of telemedicine services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Prescribing:

Prescribing medications, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe medications as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A) as amended by HB 2063. Additionally, practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

Section Five: Guidance Document Limitations.

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telemedicine services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Standards of Practice Review

Commonwealth of Virginia

REGULATIONS

GOVERNING THE PRACTICE OF PSYCHOLOGY

VIRGINIA BOARD OF PSYCHOLOGY

Title of Regulations: 18 VAC 125-20-10 et seq.

Statutory Authority: § 54.1-2400 and Chapter 36 of Title 54.1 of the *Code of Virginia*

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Part I. General Provisions.

18VAC125-20-10. Definitions.

The following words and terms, in addition to the words and terms defined in §54.1-3600 of the Code of Virginia, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"APA" means the American Psychological Association.

"APPIC" means the Association of Psychology Postdoctoral and Internship Centers.

"Board" means the Virginia Board of Psychology.

"Candidate for licensure" means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

"Demonstrable areas of competence" means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or appropriate supervised experience.

"Internship" means an ongoing, supervised and organized practical experience obtained in an integrated training program identified as a psychology internship. Other supervised experience or on-the-job training does not constitute an internship.

"NASP" means the National Association of School Psychologists.

"NCATE" means the National Council for the Accreditation of Teacher Education.

"Practicum" means the pre-internship clinical experience that is part of a graduate educational program.

"Professional psychology program" means an integrated program of doctoral study designed to train professional psychologists to deliver services in psychology.

"Regional accrediting agency" means one of the six regional accrediting agencies recognized by the United States Secretary of Education established to accredit senior institutions of higher education.

"Residency" means a post-internship, post-terminal degree, supervised experience approved by the board.

"School psychologist-limited" means a person licensed pursuant to §54.1-3606 of the Code of Virginia to provide school psychology services solely in public school divisions.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

"Supervisor" means an individual who assumes full responsibility for the education and training activities of a person and provides the supervision required by such a person.

18VAC125-20-20. [Repealed]

18VAC125-20-30. Fees required by the board.

A. The board has established fees for the following:

	Clinical psychologists Applied psychologists School psychologists	School psychologists-limited
1. Registration of residency (per residency request)	$50	
2. Add or change supervisor	$25	
3. Application processing and initial licensure	$200	$85
4. Annual renewal of active license	$140	$70
5. Annual renewal of inactive license	$70	$35
6. Late renewal	$50	$25
7. Verification of license to another jurisdiction	$25	$25
8. Duplicate license	$5	$5
9. Additional or replacement wall certificate	$15	$15
10. Returned check	$35	$35
11. Reinstatement of a lapsed license	$270	$125
12. Reinstatement following revocation or suspension	$500	$500

B. Fees shall be made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Between April 30, 2016 and Jun3 30, 2016, the following renewal fees shall be in effect:

1. For an active license as a clinical, applied or school psychologist, it shall be $84. For an inactive license as a clinical, applied or school psychologist, it shall be $42.

2. For an active license as a school psychologist-limited, it shall be $42. For an inactive license as a school psychologist-limited, it shall be $21.

Part II. Requirements for Licensure.

18VAC125-20-40. General requirements for licensure.

Individuals licensed in one licensure category who wish to practice in another licensure category shall submit an application for the additional licensure category in which the licensee seeks to practice.

18VAC125-20-41. Requirements for licensure by examination.

A. Every applicant for examination for licensure by the board shall:

1. Meet the education requirements prescribed in 18VAC125-20-54, 18VAC125-20-55, or 18VAC125-20-56 and the experience requirement prescribed in 18VAC125-20-65 as applicable for the particular license sought; and

2. Submit the following:

a. A completed application on forms provided by the board;

b. A completed residency agreement or documentation of having fulfilled the experience requirements of 18VAC125-20-65;

c. The application processing fee prescribed by the board;

d. Official transcripts documenting the graduate work completed and the degree awarded; transcripts previously submitted for registration of supervision do not have to be resubmitted unless additional coursework was subsequently obtained. Applicants who are graduates of institutions that are not regionally accredited shall submit documentation from an accrediting agency acceptable to the board that their education meets the requirements set forth in 18VAC125-20-54, 18VAC125-20-55 or 18VAC125-20-56; and

e. Verification of any other health or mental health professional license or certificate ever held in another jurisdiction.

B. In addition to fulfillment of the education and experience requirements, each applicant for licensure by examination must achieve a passing score on the Examination for Professional Practice of Psychology.

C. Every applicant shall attest to having read and agreed to comply with the current standards of practice and laws governing the practice of psychology in Virginia.

18VAC125-20-42. Prerequisites for licensure by endorsement.

Every applicant for licensure by endorsement shall submit:

1. A completed application;

2. The application processing fee prescribed by the board;

3. An attestation of having read and agreed to comply with the current Standards of Practice and laws governing the practice of psychology in Virginia;

4. Verification of all other health and mental health professional licenses or certificates ever held in any jurisdiction. In order to qualify for endorsement, the applicant shall not have surrendered a license or certificate while under investigation and shall have no unresolved action against a license or certificate;

5. A current report from the National Practitioner Data Bank; and

6. Further documentation of one of the following:

a. A current listing in the National Register of Health Service Psychologists;

b. Current diplomate status in good standing with the American Board of Professional Psychology in a category comparable to the one in which licensure is sought;

c. A Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards;

d. Ten years of active licensure in a category comparable to the one in which licensure is sought, with an appropriate degree as required in this chapter documented by an official transcript; or

e. If less than 10 years of active licensure, documentation of current psychologist licensure in good standing obtained by standards substantially equivalent to the education, experience and examination requirements set forth in this chapter for the category in which licensure is sought as verified by a certified copy of the original application submitted directly from the out-of-state licensing agency or a copy of the regulations in effect at the time of initial licensure and the following:

(1) Documentation of post-licensure active practice for at least 24 of the last sixty months immediately preceding licensure application;

(2) Verification of a passing score on the Examination for Professional Practice of Psychology as established in Virginia for the year of that administration; and

(3) Official transcripts documenting the graduate work completed and the degree awarded in the category in which licensure is sought.

18VAC125-20-43. Requirements for licensure as a school psychologist-limited.

A. Every applicant for licensure as a school psychologist-limited shall submit to the board:

1. A copy of a current license issued by the Board of Education showing an endorsement in psychology.

2. An official transcript showing completion of a master's degree in psychology.

3. A completed Employment Verification Form of current employment by a school system under the Virginia Department of Education.

4. The application fee.

B. At the time of licensure renewal, school psychologists-limited shall be required to submit an updated Employment Verification Form if there has been a change in school district in which the licensee is currently employed.

18VAC125-20-50 to 18VAC125-20-53. [Repealed]

18VAC125-20-54. Education requirements for clinical psychologists.

A. The applicant shall hold a doctorate from a professional psychology program in a regionally accredited university, which was accredited by the APA in clinical or counseling psychology within four years after the applicant graduated from the program, or shall meet the requirements of subsection B of this section.

B. If the applicant does not hold a doctorate from an APA accredited program, the applicant shall hold a doctorate from a professional psychology program which documents that it offers education and training which prepares individuals for the practice of clinical psychology as defined in §54.1-3600 of the Code of Virginia and which meets the following criteria:

1. The program is within an institution of higher education accredited by an accrediting agency recognized by the United States Department of Education or publicly recognized by the Association of Universities and Colleges of Canada as a member in good standing. Graduates of programs that are not within the United States or Canada must provide documentation from an acceptable credential evaluation service which provides information that allows the board to determine if the program meets the requirements set forth in this chapter.

2. The program shall be recognizable as an organized entity within the institution.

3. The program shall be an integrated, organized sequence of study with an identifiable psychology faculty and a psychologist directly responsible for the program, and shall have an identifiable body of students who are matriculated in that program for a degree. The faculty shall be accessible to students and provide them with guidance and supervision. The faculty shall provide appropriate professional role models and engage in actions that promote the student's acquisition of knowledge, skills and competencies consistent with the program's training goals.

4. The program shall encompass a minimum of three academic years of full-time graduate study or the equivalent thereof.

5. The program shall include a general core curriculum containing a minimum of three or more graduate semester hours or five or more graduate quarter hours in each of the following substantive content areas.

a. Biological bases of behavior (e.g., physiological psychology, comparative psychology, neuropsychology, sensation and perception, health psychology, pharmacology, neuroanatomy).

b. Cognitive-affective bases of behavior (e.g., learning theory, cognition, motivation, emotion).

c. Social bases of behavior (e.g., social psychology, group processes, organizational and systems theory, community and preventive psychology, multicultural issues).

d. Psychological measurement.

e. Research methodology.

f. Techniques of data analysis.

g. Professional standards and ethics.

6. The program shall include a minimum of at least three or more graduate semester credit hours or five or more graduate quarter hours in each of the following clinical psychology content areas:

a. Individual differences in behavior (e.g., personality theory, cultural difference and diversity).

b. Human development (e.g., child, adolescent, geriatric psychology).

c. Dysfunctional behavior, abnormal behavior or psychopathology.

d. Theories and methods of intellectual assessment and diagnosis.

e. Theories and methods of personality assessment and diagnosis including its practical application.

f. Effective interventions and evaluating the efficacy of interventions.

C. Applicants shall submit documentation of having successfully completed practicum experiences in assessment and diagnosis, psychotherapy, consultation and supervision. The practicum shall include a minimum of nine graduate semester hours or 15 or more graduate quarter hours or equivalent in appropriate settings to ensure a wide range of supervised training and educational experiences.

D. An applicant for a clinical license may fulfill the residency requirement of 1,500 hours, or some part thereof, as required for licensure in 18VAC125-20-65 B, in the pre-doctoral practicum supervised experience that meets the following standards:

1. The supervised professional experience shall be part of an organized sequence of training within the applicant's doctoral program, which meets the criteria specified in subsections A or B of this section.

2. The supervised experience shall include face-to-face direct client services, service-related activities, and supporting activities.

a. "Face-to-face direct client services" means treatment/intervention, assessment, and interviewing of clients.

b. "Service-related activities" means scoring, reporting or treatment note writing, and consultation related to face-to-face direct services.

c. "Supporting activities" means time spent under supervision of face-to-face direct services and service-related activities provided on-site or in the trainee's academic department, as well as didactic experiences, such as laboratories or seminars, directly related to such services or activities.

3. In order for pre-doctoral practicum hours to fulfill the all or part of the residency requirement, the following shall apply:

a. Not less than one-quarter of the hours shall be spent in providing face-to-face direct client services;

b. Not less than one-half of the hours shall be in a combination of face-to-face direct service hours and hours spent in service-related activities; and

c. The remainder of the hours may be spent in a combination of face-to-face direct services, service-related activities, and supporting activities.

4. A minimum of one hour of individual face-to-face supervision shall be provided for every eight hours of supervised professional experience spent in direct client contact and service-related activities.

5. Two hours of group supervision with up to five practicum students may be substituted for one hour of individual supervision. In no case shall the hours of individual supervision be less than one-half of the total hours of supervision.

6. The hours of pre-doctoral supervised experience reported by an applicant shall be certified by the program's director of clinical training on a form provided by the board.

18VAC125-20-55. Education requirements for applied psychologists.

A. The applicant shall hold a doctorate from a professional psychology program from a regionally accredited university which meets the following criteria:

1. The program is within an institution of higher education accredited by an accrediting agency recognized by the United States Department of Education, or publicly recognized by the Association of Universities and Colleges of Canada as a member in good standing. Graduates of programs that are not within the United States or Canada must provide documentation from a credential evaluation service acceptable to the board which demonstrates that the program meets the requirements set forth in this chapter.

2. The program shall be recognizable as an organized entity within the institution.

3. The program shall be an integrated, organized sequence of study with an identifiable psychology faculty and a psychologist directly responsible for the program, and shall have an identifiable body of students who are matriculated in that program for a degree. The faculty shall be accessible to students and provide them with guidance and supervision. The faculty shall provide appropriate professional role models and engage in actions that promote the student's acquisition of knowledge, skills and competencies consistent with the program's training goals.

4. The program shall encompass a minimum of three academic years of full-time graduate study or the equivalent thereof.

5. The program shall include a general core curriculum containing a minimum of three or more graduate semester hours or five or more graduate quarter hours in each of the following substantive content areas.

a. Biological bases of behavior (e.g., physiological psychology, comparative psychology, neuropsychology, sensation and perception, health psychology, pharmacology, neuroanatomy).

b. Cognitive-affective bases of behavior (e.g., learning theory, cognition, motivation, emotion).

c. Social bases of behavior (e.g., social psychology, group processes, organizational and systems theory, community and preventive psychology, multicultural issues).

d. Psychological measurement.

e. Research methodology.

f. Techniques of data analysis.

g. Professional standards and ethics.

B. Demonstration of competence in applied psychology shall be met by including a minimum of at least 18 semester hours or 30 quarter hours in a concentrated program of study in an identified area of psychology, e.g., developmental, social, cognitive, motivation, applied behavioral analysis, industrial/organizational, human factors, personnel selection and evaluation, program planning and evaluation, teaching, research or consultation.

18VAC125-20-56. Education requirements for school psychologists.

A. The applicant shall hold at least a master's degree in school psychology, with a minimum of at least 60 semester credit hours or 90 quarter hours, from a college or university accredited by a regional accrediting agency, which was accredited by the APA, NCATE or NASP, or shall meet the requirements of subsection B of this section.

B. If the applicant does not hold a master's degree in school psychology from a program accredited by the APA, NCATE or NASP, the applicant shall have a master's degree from a psychology program which offers education and training to prepare individuals for the practice of school psychology as defined in §54.1-3600 of the Code of Virginia and which meets the following criteria:

1. The program is within an institution of higher education accredited by an accrediting agency recognized by the United States Department of Education, or publicly recognized by the Association of Universities and Colleges of Canada as a member in good standing. Graduates of programs that are not within the United States or Canada must provide documentation from a credential evaluation service acceptable to the board which demonstrates that the program meets the requirements set forth in this chapter.

2. The program shall be recognizable as an organized entity within the institution.

3. The program shall be an integrated, organized sequence of study with an identifiable psychology faculty and a psychologist directly responsible for the program, and shall have an identifiable body of students who are matriculated in that program for a degree. The faculty shall be accessible to students and provide them with guidance and supervision. The faculty shall provide appropriate

professional role models and engage in actions that promote the student's acquisition of knowledge, skills and competencies consistent with the program's training goals.

4. The program shall encompass a minimum of two academic years of full-time graduate study or the equivalent thereof.

5. The program shall include a general core curriculum containing a minimum of three or more graduate semester hours or five or more graduate quarter hours in each of the following substantive content areas.

a. Psychological foundations (e.g., biological bases of behavior, human learning, social and cultural bases of behavior, child and adolescent development, individual differences).

b. Educational foundations (e.g., instructional design, organization and operation of schools).

c. Interventions/problem-solving (e.g., assessment, direct interventions, both individual and group, indirect interventions).

d. Statistics and research methodologies (e.g., research and evaluation methods, statistics, measurement).

e. Professional school psychology (e.g., history and foundations of school psychology, legal and ethical issues, professional issues and standards, alternative models for the delivery of school psychological services, emergent technologies, roles and functions of the school psychologist).

6. The program shall be committed to practicum experiences which shall include:

a. Orientation to the educational process;

b. Assessment for intervention;

c. Direct intervention, including counseling and behavior management; and

d. Indirect intervention, including consultation.

18VAC125-20-60. [Repealed]

18VAC125-20-65. Supervised experience.

A. Internship requirement.

1. Candidates for clinical psychologist licensure shall have successfully completed an internship that is either accredited by APA, APPIC, or the Association of State and Provincial Psychology Boards/National Register of Health Service Psychologists, or one that meets equivalent standards.

2. Candidates for school psychologist licensure shall have successfully completed an internship accredited by the APA, APPIC or NASP or one that meets equivalent standards.

B. Residency requirement.

1. Candidates for clinical or school psychologist licensure shall have successfully completed a residency consisting of a minimum of 1,500 hours in a period of not less than 12 months and not to exceed three years of supervised experience in the delivery of clinical or school psychology services acceptable to the board, or the applicant may request approval to begin a residency

2. Supervised experience obtained in Virginia without prior written board approval will not be accepted toward licensure. Candidates shall not begin the residency until after completion of the required degree as set forth in 18VAC125-20-54 or 18VAC125-20-56. An individual who proposes to obtain supervised post-degree experience in Virginia shall, prior to the onset of such supervision, submit a supervisory contract along with the application package and pay the registration of supervision fee set forth in 18VAC125-20-30.

3. There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual supervision per week.

4. Residents may not refer to or identify themselves as applied psychologists, clinical psychologists, or school psychologists; independently solicit clients; bill for services; or in any way represent themselves as licensed psychologists. Notwithstanding the above, this does not preclude supervisors or employing institutions for billing for the services of an appropriately identified resident. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in Psychology," in the licensure category in which licensure is sought.

5. Supervision shall be provided by a psychologist licensed to practice in the licensure category in which the resident is seeking licensure.

6. The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education and training.

7. At the end of the residency training period, the supervisor or supervisors shall submit to the board a written evaluation of the applicant's performance.

8. The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability that limits the resident's access to qualified supervisors.

C. For a clinical psychologist license, a candidate may submit evidence of having met the supervised experience requirements in a pre-doctoral practicum as specified in 18VAC125-20-54 D in substitution for all or part of the 1,500 residency hours specified in this section. If the supervised experience hours completed in a practicum do not total 1,500 hours, a person may fulfill the remainder of the hours by meeting requirements specified in subsection B of this section.

D. Candidates for clinical psychologist licensure shall provide documentation that the internship and residency included appropriate emphasis and experience in the diagnosis and treatment of persons with moderate to severe mental disorders.

18VAC125-20-70. [Repealed]

Part III. Examinations.

18VAC125-20-80. General examination requirements.

A. An applicant for clinical or school psychologist licensure enrolled in an approved residency training program required in 18VAC125-20-65 who has met all requirements for licensure except completion of that program shall be eligible to take the national written examinations.

B. A candidate approved by the board to sit for an examination shall take that examination within two years of the date of the initial board approval. If the candidate has not taken the examination by the end of the two-year period here prescribed, the applicant shall reapply according to the requirements of the regulations in effect at that time.

C. The board shall establish passing scores on the examination.

18VAC125-20-90 to 18VAC125-20-110. [Repealed]

Part V. Licensure Renewal; Reinstatement.

18VAC125-20-120. Annual renewal of licensure.

Every license issued by the board shall expire each year on June 30.

1. Every licensee who intends to continue to practice shall, on or before the expiration date of the license, submit to the board a license form supplied by the board and the renewal fee prescribed in 18VAC125-20-30.

2. Licensees who wish to maintain an active license shall pay the appropriate fee and verify on the renewal form compliance with the continuing education requirements prescribed in 18VAC125-20-121. First-time licensees by examination are not required to verify continuing education on the first renewal date following initial licensure.

3. A licensee who wishes to place his license in inactive status may do so upon payment of the fee prescribed in 18VAC125-20-30. No person shall practice psychology in Virginia unless he holds a current active license. An inactive licensee may activate his license by fulfilling the reactivation requirements set forth in 18VAC125-20-130.

4. Licensees shall notify the board office in writing of any change of address of record or of the public address, if different from the address of record. Failure of a licensee to receive a renewal notice and application forms from the board shall not excuse the licensee from the renewal requirement.

18VAC125-20-121. Continuing education course requirements for renewal of an active license.

A. Licensees shall be required to have completed a minimum of 14 hours of board-approved continuing education courses each year for annual licensure renewal. A minimum of 1.5 of these hours shall be in courses that emphasize the ethics, laws, and regulations governing the profession of psychology, including the standards of practice set out in 18VAC125-20-150. A licensee who completes continuing education hours in excess of the 14 hours may carry up to seven hours of continuing education credit forward to meet the requirements for the next annual renewal cycle.

B. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the practice of psychology and is provided by a board-approved provider that meets the criteria specified in 18VAC125-20-122.

1. At least six of the required hours shall be earned in face-to-face or real-time interactive educational experiences. Real-time interactive shall include a course in which the learner has the opportunity to interact with the presenter and participants during the time of the presentation.

2. The board may approve up to four hours per renewal cycle for specific educational experiences to include:

a. Preparation for or presentation of a continuing education program, seminar, workshop or course offered by an approved provider and directly related to the practice of psychology. Hours may only be credited one time, regardless of the number of times the presentation is given, and may not be credited toward the face-to-face requirement.

b. Publication of an article or book in a recognized publication directly related to the practice of psychology. Hours may only be credited one time, regardless of the number of times the writing is published, and may not be credited toward the face-to-face requirement.

3. The board may approve up to two hours per renewal cycle for membership on a state licensing board in psychology.

C. Courses must be directly related to the scope of practice in the category of licensure held. Continuing education courses for clinical psychologists shall emphasize, but not be limited to, the diagnosis, treatment and care of patients with moderate and severe mental disorders.

D. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

E. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

18VAC125-20-122. Continuing education providers.

A. The following organizations, associations or institutions are approved by the board to provide continuing education:

1. Any psychological association recognized by the profession or providers approved by such an association.

2. Any association or organization of mental health, health or psychoeducational providers recognized by the profession or providers approved by such an association or organization.

3. Any association or organization providing courses related to forensic psychology recognized by the profession or providers approved by such an association or organization.

4. Any regionally accredited institution of higher learning. A maximum of 14 hours will be accepted for each academic course directly related to the practice of psychology.

5. Any governmental agency or facility that offers mental health, health or psychoeducational services.

6. Any licensed hospital or facility that offers mental health, health or psychoeducational services.

7. Any association or organization that has been approved as a continuing competency provider by a psychology board in another state or jurisdiction.

B. Continuing education providers approved under subsection A of this section shall:

1. Maintain documentation of the course titles and objectives and of licensee attendance and completion of courses for a period of four years.

2. Monitor attendance at classroom or similar face-to-face educational experiences.

3. Provide a certificate of completion for licensees who successfully complete a course.

18VAC125-20-123. Documenting compliance with continuing education requirements.

A. All licensees in active status are required to maintain original documentation for a period of four years.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. Official transcripts showing credit hours earned from an accredited institution; or

2. Certificates of completion from approved providers.

D. Compliance with continuing education requirements, including the maintenance of records and the relevance of the courses to the category of licensure, is the responsibility of the licensee. The board may request additional information if such compliance is not clear from the transcripts or certificates.

E. Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.

18VAC125-20-130. Late renewal; reinstatement; reactivation.

A. A person whose license has expired may renew it within one year after its expiration date by paying the penalty fee prescribed in 18VAC125-20-30 and the license renewal fee for the year the license was not renewed.

B. A person whose license has not been renewed for one year or more and who wishes to resume practice shall:

1. Present evidence to the board of having met all applicable continuing education requirements equal to the number of years the license has lapsed, not to exceed four years;

2. Pay the reinstatement fee as prescribed in 18VAC125-20-30; and

3. Submit verification of any professional certification or licensure obtained in any other jurisdiction subsequent to the initial application for licensure.

C. A psychologist wishing to reactivate an inactive license shall submit the renewal fee for active licensure minus any fee already paid for inactive licensure renewal, and document completion of continued competency hours equal to the number of years the license has been inactive, not to exceed four years.

18VAC125-20-140. [Repealed]

Part VI. Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement.

18VAC125-20-150. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Psychologists respect the rights, dignity and worth of all people, and are mindful of individual differences.

B. Persons licensed by the board shall:

1. Provide and supervise only those services and use only those techniques for which they are qualified by training and appropriate experience. Delegate to their employees, supervisees, residents and research assistants only those responsibilities such persons can be expected to perform competently by education, training and experience. Take ongoing steps to maintain competence in the skills they use;

2. When making public statements regarding credentials, published findings, directory listings, curriculum vitae, etc., ensure that such statements are neither fraudulent nor misleading;

3. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services. Make appropriate consultations and referrals consistent with the law and based on the interest of patients or clients;

4. Refrain from undertaking any activity in which their personal problems are likely to lead to inadequate or harmful services;

5. Avoid harming patients or clients, research participants, students and others for whom they provide professional services and minimize harm when it is foreseeable and unavoidable. Not exploit or mislead people for whom they provide professional services. Be alert to and guard against misuse of influence;

6. Avoid dual relationships with patients, clients, residents or supervisees that could impair professional judgment or compromise their well-being (to include but not limited to treatment of close friends, relatives, employees);

7. Withdraw from, adjust or clarify conflicting roles with due regard for the best interest of the affected party or parties and maximal compliance with these standards;

8. Not engage in sexual intimacies or a romantic relationship with a student, supervisee, resident, therapy patient, client, or those included in collateral therapeutic services (such as a parent, spouse, or significant other) while providing professional services. For at least five years after cessation or termination of professional services, not engage in sexual intimacies or a romantic relationship with a therapy patient, client, or those included in collateral therapeutic services. Consent to, initiation of, or participation in sexual behavior or romantic involvement with a psychologist does not change the exploitative nature of the conduct nor lift the prohibition. Since sexual or romantic relationships are potentially exploitative, psychologists shall bear the burden of demonstrating that there has been no exploitation;

9. Keep confidential their professional relationships with patients or clients and disclose client records to others only with written consent except: (i) when a patient or client is a danger to self or others, (ii) as required under §32.1-127.1:03 of the Code of Virginia, or (iii) as permitted by law for a valid purpose;

10. Make reasonable efforts to provide for continuity of care when services must be interrupted or terminated;

11. Inform clients of professional services, fees, billing arrangements and limits of confidentiality before rendering services. Inform the consumer prior to the use of collection agencies or legal measures to collect fees and provide opportunity for prompt payment. Avoid bartering goods and services. Participate in bartering only if it is not clinically contraindicated and is not exploitative;

12. Construct, maintain, administer, interpret and report testing and diagnostic services in a manner and for purposes which are appropriate;

13. Keep pertinent, confidential records for at least five years after termination of services to any consumer;

14. Design, conduct and report research in accordance with recognized standards of scientific competence and research ethics; and

15. Report to the board known or suspected violations of the laws and regulations governing the practice of psychology.

18VAC125-20-160. Grounds for disciplinary action or denial of licensure.

The board may take disciplinary action or deny a license for any of the following causes:

1. Conviction of a felony, or a misdemeanor involving moral turpitude;

2. Procuring of a license by fraud or misrepresentation;

3. Misuse of drugs or alcohol to the extent that it interferes with professional functioning;

4. Negligence in professional conduct or violation of practice standards including but not limited to this chapter;

5. Performing functions outside areas of competency;

6. Mental, emotional, or physical incompetence to practice the profession;

7. Failure to comply with the continued competency requirements set forth in this chapter; or

8. Violating or aiding and abetting another to violate any statute applicable to the practice of the profession regulated or any provision of this chapter.

18VAC125-20-170. Reinstatement following disciplinary action.

A. Any person whose license has been revoked by the board under the provisions of 18VAC125-20-160 may, three years subsequent to such board action, submit a new application to the board for reinstatement of licensure. The board in its discretion may, after a hearing, grant the reinstatement.

B. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement.

Commonwealth of Virginia

REGULATIONS

GOVERNING THE CERTIFICATION OF SEX OFFENDER TREATMENT PROVIDERS

VIRGINIA BOARD OF PSYCHOLOGY

Title of Regulations: 18 VAC 125-30-10 et seq.

Statutory Authority: §§ 54.1-2400 and Chapter 36 of Title 54.1 of the *Code of Virginia*

Revised Date: January 27, 2016

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Part I. General Provisions.

18VAC125-30-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Ancillary services" means training in anger management, stress management, assertiveness, social skills, substance abuse avoidance and sex education as part of an identified sex offender treatment provider program.

"Applicant" means an individual who has submitted a completed application with documentation and the appropriate fees to be examined for certification as a sex offender treatment provider.

"Assessment" means using specific techniques of evaluation and measurement to collect facts related to sexually abusive thoughts and behaviors contributing to sexual offense.

"Board" means the Virginia Board of Psychology.

"Certified sex offender treatment provider" means a person who is certified to provide treatment to sex offenders and who provides such services in accordance with the provisions of §§ 54.1-2924.1, 54.1-3005, 54.1-3505, 54.1-3609, 54.1-3610, 54.1-3611, and 54.1-3705 of the Code of Virginia and the regulations promulgated pursuant to these provisions.

"Competency area" means an area in which a person possesses knowledge and skills and the ability to apply them in the clinical setting.

"Sex offender" means (i) any person who has been adjudicated or convicted of a sex offense or has a founded child sexual abuse status by the Department of Social Services; (ii) any person for whom any court has found sufficient evidence without specific finding of guilt of committing a felony or misdemeanor which may be reasonably inferred to be sexually motivated; or (iii) any person who admits to or acknowledges behavior which would result in adjudication, conviction, or a founded child sexual abuse status.

"Sex offense" means behavior in violation of any of the following statutes in the Code of Virginia: § 18.2-48 in part (abduction of any person with intent to defile such person), § 18.2-60.3 in part (includes only those instances in which sexual motivation can be reasonably inferred), § 18.2-61, § 18.2-63, § 18.2-64.1, § 18.2-67.1, § 18.2-67.2, § 18.2-67.2:1, § 18.2-67.3, § 18.2-67.4, § 18.2-67.5, § 18.2-130 in part (includes only those instances in which sexual motivation can be reasonable inferred), subsection A of § 18.2-361 in part "If any person carnally knows in any manner any brute animal" and subsection B § 18.2-361 in its entirety, § 18.2-366, § 18.2-370, § 18.2-370.1, § 18.2-374.1 (not to include plethysmographic testing materials in the possession of qualified mental health professionals or technicians), § 18.2-387.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular documented individual consultation, guidance and instruction with respect to the skills and competencies of the person providing sex offender treatment services.

"Supervisor" means an individual who assumes full responsibility for the education and training activities of a person as it relates to sex offender treatment and provides the supervision required by such a person. The supervisor shall be a certified sex offender treatment provider and licensed by the Board of Medicine, Nursing, Counseling, Psychology or Social Work.

"Treatment" means therapeutic intervention to change sexually abusive thoughts and behaviors which specifically addresses the occurrence and dynamics of sexual behavior and utilizes specific strategies to promote change.

18VAC125-30-20. Fees required by the board.

A. The board has established the following fees applicable to the certification of sex offender treatment providers:

Registration of supervision	$50
Add or change supervisor	$25
Application processing and initial certification fee	$90
Certification renewal	$75
Duplicate certificate	$5
Late renewal	$25
Reinstatement of an expired certificate	$125
Replacement of or additional wall certificate	$15
Returned check	$35
Reinstatement following revocation or suspension	$500
One-time reduction in fee for renewal on June 30, 2016	$45

B. Fees shall be made payable to the Treasurer of Virginia. All fees are nonrefundable.

Statutory Authority

Part II. Requirements for Certification.

18VAC125-30-30. Prerequisites to certification.

A. Every applicant for certification by the board shall:

1. Meet the educational requirements prescribed in 18VAC125-30-40;
2. Meet the experience requirements prescribed in 18VAC125-30-50;
3. Submit to the board:
    a. A completed application form;
    b. Documented evidence of having fulfilled the education, experience, and supervision set forth in 18VAC125-30-40 and 18VAC125-30-50; and
    c. Reference letters from three licensed health care professionals familiar with and attesting to the applicant's skills and experience.

B. The board may certify by endorsement an individual who can document current certification as a sex offender treatment provider in good standing obtained by standards substantially equivalent to those outlined in this chapter as verified by an out-of-state certifying agency on a board-approved form.

18VAC125-30-40. Educational requirements.

An applicant for certification as a sex offender treatment provider shall:

1. Document completion of one of the following degrees:
    a. A master's or doctoral degree in social work, psychology, counseling, or nursing from a regionally accredited university; or
    b. The degree of Doctor of Medicine or Doctor of Osteopathic Medicine from an institution that is approved by an accrediting agency recognized by the Virginia Board of Medicine. Graduates of institutions that are not accredited by an acceptable accrediting agency shall establish the equivalency of their education to the educational requirements of the Virginia Board of Social Work, Psychology, Counseling, Nursing or Medicine.

2. Provide documentation of 50 clock hours of training acceptable to the board in the following areas, with 15 clock hours in each area identified in subdivisions 2 a and b of this section, 10 clock hours in each area identified in subdivision 2 c of this section, and five clock hours in each area identified in subdivisions 2 d and e of this section:

a. Sex offender assessment;

b. Sex offender treatment interventions;

c. Etiology/developmental issues of sex offense behavior;

d. Criminal justice and legal issues related to sexual offending; and

e. Program evaluation, treatment efficacy, and issues related to recidivism of sex offenders.

18VAC125-30-50. Experience requirements; supervision.

A. Registration of supervision.

1. In order to register supervision with the board, individuals shall submit:

a. A completed supervisory contract;

b. The registration fee prescribed in 18VAC125-30-20; and

c. Official graduate transcript.

2. The board may waive the registration requirement for individuals who have obtained at least five years documented work experience in sex offender treatment in another jurisdiction.

B. An applicant for certification as a sex offender treatment provider shall provide documentation of having 2,000 hours of postdegree clinical experience in the delivery of clinical assessment/treatment services. At least 200 hours of this experience must be face-to-face treatment and assessment with sex offender clients.

1. The experience shall include a minimum of 100 hours of face-to-face supervision within the 2,000 hours experience with a minimum of six hours per month. A minimum of 50 hours shall be in individual face-to-face supervision. Face-to-face supervision obtained in a group setting shall include no more than six trainees in a group.

2. If the applicant has obtained the required postdegree clinical experience for a mental health license within the past 10 years, he can receive credit for those hours that were in the delivery of clinical assessment/treatment services with sex offender clients provided:

a. The applicant can document that the hours were in the treatment and assessment with sex offender clients; and

b. The supervisor for those hours can attest that he was licensed and qualified to render services to sex offender clients at the time of the supervision.

C. Supervised experience obtained in Virginia without prior written board approval shall not be accepted toward certification. Candidates shall not begin the experience until after completion of the required degree as set forth in 18VAC125-30-40. An individual who proposes to obtain supervised postdegree experience in Virginia shall, prior to the onset of such supervision, submit a supervisory contract along with the application package and pay the registration of supervision fee set forth in 18VAC125-30-20.

D. The supervisor.

1. The supervisor shall assume responsibility for the professional activities of the applicant.

2. The supervisor shall not provide supervision for activities for which the prospective applicant has not had appropriate education.

3. The supervisor shall hold a current and unrestricted license as a clinical nurse specialist, doctor of medicine or osteopathic medicine, professional counselor, clinical social worker, or clinical psychologist and shall provide supervision only for those sex offender treatment services which he is qualified to render.

4. At the time of formal application for certification, the board approved supervisor shall document for the board the applicant's total hours of supervision, length of work experience, competence in sex offender treatment, and needs for additional supervision or training.

18VAC125-30-60. [Repealed]

18VAC125-30-70. Supervision of unlicensed persons.

Those persons providing ancillary services as part of an identified sex offender treatment program in an exempt practice situation and not meeting the educational and experience requirements to become an applicant shall provide such services under the supervision of a certified sex offender treatment provider.

Part III. Renewal and Reinstatement.

18VAC125-30-80. Annual renewal of certificate.

A. Every certificate issued by the board shall expire on June 30 of each year.

B. Along with the renewal application, the certified sex offender treatment provider shall:

1. Submit the renewal fee prescribed in 18VAC125-30-20; and

2. Attest to having obtained six hours of continuing education in topics related to the provision of sex offender treatment within the renewal period. Continuing education shall be offered by a sponsor or provider approved by the Virginia Board of Social Work, Psychology, Counseling, Nursing, or Medicine or by the Association for the Treatment of Sexual Abusers or one of its state chapters. Hours of continuing education used to satisfy the renewal requirements for another license may be used to satisfy the six-hour requirement for sex offender treatment provider certification, provided it was related to the provision of sex offender treatment.

C. Certificate holders shall notify the board in writing of a change of address of record or of the public address, if different from the address of record, within 60 days. Failure to receive a renewal notice and application form or forms shall not excuse the certified sex offender treatment provider from the renewal requirement.

18VAC125-30-90. Reinstatement.

A. A person whose certificate has expired may renew it within one year after its expiration date by paying the renewal fee and the late renewal fee prescribed in 18VAC125-30-20.

B. A person whose certificate has expired beyond one year and who wishes to resume practice shall:

1. Submit a reinstatement application along with the reinstatement fee.

2. Provide evidence satisfactory to the board of current ability to practice.

3. Submit verification of any professional certification or licensure obtained in any other jurisdiction subsequent to the initial application for certification.

Part IV. Standards of Practice; Disciplinary Action; Reinstatement.

18VAC125-30-100. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all certified practitioners who provide services to sex offenders.

B. Persons certified by the board and applicants under supervision shall:

1. Practice in a manner that ensures community protection and safety.

2. Treat all sex offender clients with dignity and respect, regardless of the nature of their crimes or offenses.

3. Provide only services and use only techniques for which they are qualified by training and experience.

4. Inform sex offender clients of (i) the purposes of an interview, testing, or evaluation session; (ii) the ways in which information obtained in such sessions will be used before asking the sex offender client to reveal personal information or allowing such information to be divulged; (iii) the methods of interventions, including any experimental methods of treatment; and (iv) the risks and benefits of any treatment.

5. Inform sex offender clients of the limits of confidentiality and any circumstances which may allow an exception to the agreed upon confidentiality, including (i) as obligated under dual-client situations, especially in criminal justice or related settings; (ii) when the client is a danger to self or others; (iii) when under court order to disclose information; (iv) in cases of suspected child abuse; and (v) as otherwise required by law.

6. Not require or seek waivers of privacy or confidentiality beyond the requirements of treatment, training, or community safety.

7. Explain to juvenile sex offender clients the rights of their parents or legal guardians, or both, to obtain information relating to the sex offender client.

8. Maintain sex offender client records securely, inform all employees of the rules applicable to the appropriate level of confidentiality, and provide for the destruction of records which are no longer useful.

9. Retain sex offender client records for a minimum of five years from the date of termination of services.

10. Stay abreast of new developments, concepts, and practices which are important to providing appropriate professional services.

11. Never engage in dual relationships with sex offender clients or former clients, or current trainees that could impair professional judgment or compromise the sex offender client's or trainee's well-being, impair the trainee's judgment, or increase the risk of sex offender client or trainee exploitation. Engaging in sexual intimacies or romantic relationships with sex offender clients or former clients, or with current trainees is strictly prohibited.

12. Report to the board known or suspected violations of the laws and regulations governing the practice of sex offender treatment providers, as well as any information that a sex offender treatment provider is unable to practice with reasonable skill and safety because of illness or substance abuse or otherwise poses a danger to himself, the public, or clients.

13. Provide clients with accurate information concerning tests, reports, billing, payment responsibilities, therapeutic regime, and schedules before rendering services.

14. Maintain cooperative and collaborative relationships with corrections/probation/parole officers or any responsible agency for purposes of the effective supervision and monitoring of a sex offender client's behavior in order to assure public safety.

15. Consider the validity, reliability, and appropriateness of assessments selected for use with sex offender clients. Where questions exist about the appropriateness of utilizing a particular assessment with a sex offender client, expert guidance from a knowledgeable, certified sex offender treatment provider shall be sought.

16. Recognize the sensitivity of sexual arousal assessment testing and treatment materials, safeguard the use of such materials in compliance with § 18.2-374.1:1 of the Code of Virginia, and use them only for the purpose for which they are intended in a controlled penile plethysmographic laboratory assessment.
17. Be aware of the limitations of plethysmograph and that plethysmographic data is only meaningful within the context of a comprehensive evaluation or treatment process or both.
18. Be knowledgeable of the limitations of the polygraph and take into account its appropriateness with each individual client and special client population.
19. Comply with all laws of the Code of Virginia applicable to the practice of sex offender treatment providers.

18VAC125-30-110. Grounds for disciplinary action.

The board may revoke, suspend, restrict or refuse to issue a certificate, or reprimand or fine a practitioner in accord with the following:

1. Violation of the standards of practice.
2. Conviction of a felony or a misdemeanor involving moral turpitude.
3. Misuse of drugs or alcohol which interferes with professional functioning.
4. Mental or physical illness which interferes with professional functioning.
5. The denial, revocation, suspension, or restriction of a registration, license or certificate to practice in another state, or a United States possession or territory or the surrender of any such registration, license or certificate while an active investigation is pending.

18VAC125-30-120. Reinstatement following disciplinary action.

A. Any person whose certificate has been revoked by the board under the provisions of 18VAC125-30-110 may, three years subsequent to such board action, submit a new application to the board for certification to the board. Any person whose certificate has been denied renewal by the board under the provisions of 18VAC125-30-110 may, two years subsequent to such board action, submit a new application to the board for certification to the board.

B. The board in its discretion may, after a hearing, grant reinstatement.

C. The applicant for reinstatement, if approved, shall be certified upon payment of the appropriate fees applicable at the time of reinstatement.

Standards of Practice Review (continued)

Ohio Rules of Professional Conduct

Chapter 4732-17 Rules of Professional Conduct

4732-17-01 General rules of professional conduct pursuant to section 4732.17 of the Revised Code.

Pursuant to section 4732.17 of the Revised Code, the board promulgates the following rules of professional conduct:

(A) General considerations:

(1) Purpose. The rules of professional conduct constitute the standards against which the required professional conduct of a psychologist is measured.

(2) Scope. The rules of professional conduct shall apply to the conduct of all license holders, supervisees, and applicants, including the applicant's conduct during the period of education, training, and employment that is required for licensure. The term "psychologist," as used within these rules of professional conduct, shall be interpreted accordingly, whenever psychological services are being provided in any context.

(3) Violations. A violation of the rules of professional conduct constitutes unprofessional conduct and is sufficient reason for a reprimand, suspension or revocation of a license, or denial of either original licensure or reinstatement of licensure.

(4) Aids to interpretation. Ethics codes and standards for providers promulgated by the "American Psychological Association," the "Association of State and Provincial Psychology Boards," and other relevant professional groups shall be used as aids in resolving ambiguities that may arise in the interpretation of the rules of professional conduct, except that these rules of professional conduct shall prevail whenever any conflict exists between these rules and any professional association standard.

(5) A license holder, or an applicant for licensure, shall provide a written response within a reasonable period of time not to exceed sixty days to any written inquiry, regarding compliance with law or rule, received from the board.

(B) Negligence:

(1) A license holder in a professional psychological role, as that term is defined in paragraph (R) of rule 4732-3-01 of the Administrative Code shall be considered negligent if his/her behaviors toward his/her clients, evaluees, supervisees, employees or students, in the judgment of the board, clearly fall below the standards for acceptable practice of psychology or school psychology.

(2) Sexual harassment. License holders shall not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the psychologist's activities or roles as a psychologist, and that either (a) is unwelcome, is offensive, or creates a hostile workplace or educational environment, and the psychologist knows or is told this or (b) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

(3) Misrepresentation of qualifications. A license holder shall not misrepresent directly or by implication his/her professional qualifications such as education, specialized training, experience, or area(s) of competence.

(4) Misrepresentation of affiliations. A license holder shall not misrepresent directly or by implication his/her affiliations or the purposes or characteristics of institutions and organizations with which the psychologist is associated.

(a) A license holder shall not claim either directly or by implication professional qualifications that differ from actual qualifications, including use of a degree or title that is not relevant to his/her psychological training or that is issued by an educational institution not meeting accreditation standards, he/she shall not misrepresent affiliation with any

institution, organization, or individual, nor lead others to assume he/she has affiliations that he/she does not have. A psychologist or school psychologist is responsible for correcting a client or public media who misrepresent his/her professional qualifications or affiliations, if he/she has knowledge of this misrepresentation.

(b) A license holder shall not include false or misleading information in public statements concerning psychological services offered.

(c) A license holder shall not associate with or permit his/her name to be used in connection with any services or products in such a way as to misrepresent them, the degree of his/her responsibility for them, or the nature of his/her association with them.

(5) Solicitation of business by clients. A license holder shall not request or authorize any client to solicit business on behalf of the license holder.

(6) Promotional activities. A license holder associated with the development, promotion, or sale of psychological devices, books, or other products shall ensure that such devices, books, or products are not misrepresented as to qualities, performance or results to be obtained from their use.

(7) Maintenance and retention of records.

(a) A license holder rendering professional individual services to a client, or services billed to a third-party payer, shall maintain a professional record that includes:

(i) The presenting problem(s),

(ii) The date(s) and purpose, if not self-evident, of each service contact,

(iii) The fee arrangement,

(iv) Any test or other evaluative results obtained,

(v) Test data,

(vi) A copy of any test or other evaluative reports prepared as part of the professional relationship,

(vii) Notation of providing verbal communication of assessment results in the absence of a written report,

(viii) Notation and results of formal contacts with other providers,

(ix) Authorizations, if any, by the client for release of records or information,.

(x) Written documentation indicating that the client or evaluee has provided informed consent for treatment or evaluation,

(xi) Justification and rationale for not releasing records to a client in response to a valid request, including the reason for making a determination for clearly stated treatment reasons that disclosure of the requested records is likely to have an adverse effect on the client, and shall comply with section (B) of division 3701.74 of the Revised Code.

(xii) Knowledge of all multiple relationships present, with reasoning as to why it is in the best interest of the client and/or not harmful to continue the professional relationship, and

(b) To meet the requirements of these rules, but not necessarily for other legal purposes, the license holder shall ensure that all contents in the professional record are maintained for a period of not less than seven years after the last date of service rendered, or not less than the length of time required by other regulations if that is longer. A license holder shall retain records documenting services rendered to minors for not less than two years after the minor has reached the age of majority or for seven years after the last date of service, whichever is longer.

(c) A license holder shall store and dispose of written, electronic, and other records of clients in such a manner as to ensure their confidentiality. License holders shall prepare in advance and disseminate to an identifiable person a written plan to facilitate appropriate transfer and to protect the confidentiality of records in the event of the license holder's withdrawal from positions or practice. Each license holder shall report to the board on the biennial registration (renewal) form the name, address, and telephone number of a license holder or other appropriate person knowledgeable about the location of the written plan for transfer and custody of records and responsibility for records in the event of the licensee's absence, emergency or death. The written plan referenced in this rule shall be made available to the board upon request.

(d) In the event a complaint has been filed, a license holder shall provide the original or a full copy of the client file or other client-identifiable documents to the board upon request, provided that the request is accompanied by a copy of a release signed by the client.

(e) License holders shall provide clients with reasonable access to the record maintained. License holders shall be familiar with state and federal laws and regulations relevant to client access to their records of services, and shall limit clients' access to records only in exceptional circumstances in which the license holder determines for clearly stated treatment reasons that disclosure of the requested records is likely to have an adverse effect on the client.

(f) License holders shall be aware of and adhere to divisions (H)(1) and (H)(2) of section 3109.051 of the Revised Code and other relevant laws governing a divorced non-residential parent's rights to access a license holder's records related to the parent's child.

(C) Welfare of the client, evaluee, and associated persons:

(1) Conflicts of interest. License holders actively identify, disclose, document, and remedy conflicts of interest and potential conflicts of interest. License holders actively clarify and document their role when providing or offering psychological or school psychological services. Notwithstanding paragraph (B)(7)(e) of this rule, conflict of interest situations include but are not limited to:

(a) License holders in a treatment role with two or more clients who have a relationship with each other, and who are aware of each other's participation in treatment (for example, couples and family members), shall clarify with all parties and document the nature of one's professional obligations to the various clients receiving services, including limits of confidentiality and access to records.

(b) License holders in a treatment role with one or more adults involved in a contested parenting time or custody dispute shall anticipate being asked to participate in conflicting roles. License holders shall clarify and document as early as feasible that his/her role is restricted to providing therapeutic services, and shall take appropriate action to avoid role conflicts.

(c) License holders in a treatment role with one or more adults involved in a contested parenting time or custody dispute shall not render verbal or written opinions to any person or entity, including but not limited to the client, any court, attorney, guardian ad litem, or other professional about a client's access or other person's access to, or parenting time with, any child.

(d) License holders in a treatment role with one or more children shall not render verbal or written opinions about any adult's access to or parenting time with the child client(s).

(e) In the absence of a preexisting relationship, license holders may undertake roles specifically determined by a court or other adjudicative body or child welfare agency (concerning, for example, parenting coordination and family reunification), wherein rendering opinions and recommendations about the client(s) to the adjudicative body may be necessary and appropriate, if consistent with the parameters of a written order or directive, and if the role of the license holder is established in written informed consent procedures.

(f) When there is a conflict of interest between the client and the organization with which the license holder is contracted, employed, or affiliated, the license holder shall clarify the nature and direction of his/her loyalties and responsibilities and shall keep all parties concerned informed of his/her commitments.

(2) Unforeseen multiple relationships. If a license holder determines that, due to unforeseen factors, a prohibited multiple relationship as defined in paragraph (E)(2) of this rule has inadvertently developed, he or she shall take reasonable steps to resolve it with due regard for the welfare of the person(s) with whom there is or was a professional psychological role.

(a) All potential multiple relationships shall be discussed with the client as soon as possible after being first recognized and shall continue only with both parties'agreement.

(b) License holders document the discovery of all multiple relationships, with reasoning as to why it is in the best interest of the client and/or not harmful to continue the professional relationship.

(c) As warranted, the presence of a multiple relationship shall be reassessed and justified in the record. Issues such as informed consent and professional consultation shall be considered and documented to ensure that judgment is not impaired and that no exploitation of any person occurs.

(3) Sufficient professional information. A license holder rendering a formal professional opinion or recommendation about a person shall not do so without substantial professional information within a clearly defined role.

(4) Informed consent. A license holder shall accord each client informed choice, confidentiality, and reasonable protection from physical or mental harm or danger.

(a) License holders clearly document written informed consent, permission, or assent, as warranted by the circumstances, for treatment or evaluation prior to proceeding with the provision of psychological or school psychological services.

(b) When a license holder is in an individual treatment role, there may be reason for a third party to join one or more sessions for a limited purpose. The license holder shall document in the record that the client or legal guardian has acknowledged understanding the purpose and need for the third party to be present and the circumstances and extent to which confidential information may be disclosed to the third party. The license holder shall document that the third party has provided an understanding that the individual is not a client, that there is no expectation of confidentiality between the license holder and the third party, and that the third party shall not have rights to access any part of the client's file (unless the client provides written authorization to release specific confidential information). A license holder shall not render opinions or recommendations to any person or entity, including but not limited to the client, any court, attorney, guardian ad litem, or other professional concerning such third parties.

(c) The license holder shall keep the client fully informed as to the purpose and nature of any treatment or other procedures, and of the person's right to freedom of choice regarding services offered. A license holder shall give a truthful, understandable, and reasonably complete account of a client's condition to the client or to those legally responsible for the care of the client in accord with informed consent processes.

(d) When a court or other adjudicative body orders an evaluation, assessment or intervention, the license holder shall document and inform the evaluee(s) or client(s) of the parameters of the court order and shall not provide services or opinions beyond the parameters of the order.

(e) When a license holder provides services to two or more clients who have a relationship with each other and who are aware of each other's participation in treatment (for example, couples and family members), the license holder shall clarify with all parties and document the parties' understanding about how records of the services will be maintained, who has access to the records, and any limits of access to the records.

(5) Dependency. Due to an inherently influential position, a license holder shall not exploit the trust or dependency of any client, supervisee, evaluee or other person with whom there is a professional psychological role, as that term is defined in paragraph (R) of rule 4732-3-01 of the Administrative Code.

(6) Media. Psychological services for the purpose of diagnosis, treatment, or personalized advice shall be provided only in the context of a professional relationship, and shall not be given by means of public lectures or demonstrations, newspaper or magazine articles, radio or television programs, or similar media.

(7) Stereotypes. A license holder shall not impose on a client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, or sexual orientation that would interfere with the objective provision of psychological services to the client.

(8) Termination/alternatives. A license holder shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship, and shall offer to help locate alternative sources of professional services or assistance if indicated.

(9) Referral. A license holder shall make an appropriate referral of a client to another professional when requested to do so by the client.

(10) Continuity of care. A license holder shall make arrangements for another appropriate professional or professionals to deal with the emergency needs of his/her clients, as appropriate, during periods of foreseeable absence from professional availability.

(11) Interruption of services.

(a) A license holder makes reasonable efforts to plan for continuity of care in the event that psychological services are interrupted by factors such as the license holder's illness, unavailability, relocation, or death, or the client's relocation or financial limitations.

(b) A license holder entering into employment or contractual relationships shall make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration being given to the welfare of the client. A license holder who serves as an employer of other license holders has an obligation to make similar appropriate arrangements.

(12) Practicing while impaired. A license holder shall not undertake or continue a professional psychological role when the judgment, competence, and/or objectivity of the license holder is impaired due to mental, emotional, physiological, pharmacological, or substance abuse conditions. If impaired judgment, competence, and/or objectivity develops after a professional role has been initiated, the license holder shall terminate the professional role in an appropriate manner, shall notify the client and/or other relevant parties of the termination in writing, and shall assist the client, supervisee, or evaluee in obtaining appropriate services from another appropriate professional.

(D) Remuneration:

(1) Financial arrangements:

(a) All financial arrangements shall be documented and made clear to each client in advance of billing, preferably within the initial session but no later than the end of the second session, unless such disclosure is contraindicated in the professional judgment of the licensee. In the event that disclosure is not made by the end of the second session, the license holder bears the burden of demonstrating that disclosure was contraindicated and that the client was not harmed as a result of non-disclosure.

(b) A license holder shall not mislead or withhold from any client, prospective client, or third-party payer, information about the cost of his/her professional services.

(c) A license holder shall not exploit a client or responsible payer by charging a fee that is excessive for the services performed or by entering into an exploitative bartering arrangement in lieu of a fee.

(d) The primary obligation of a license holder employed by an institution, agency, or school is to persons entitled to his/her services through the institution, agency, or school. A license holder shall not accept a private fee or any other form of remuneration from such persons unless the policies of a particular institution, agency or school make explicit provision for private work with its clients by members of its staff. In such instances the client or guardian shall be fully apprised of available services and all policies affecting him/her, prior to entering into a private professional relationship with a license holder.

(e) A license holder, when providing services to a pool of subscribers through a third-party payer capitation, or variation of capitation, reimbursement arrangement, who is thus being paid on other than a strictly fee-for-service basis, shall disclose that information in writing to each client member of the subscriber pool at the beginning of the professional relationship with the client member. The written disclosure shall describe the nature of the reimbursement arrangement including that the third-party payer has established a set dollar amount that the license holder will be paid regardless of the cost or frequency of the services provided to the members of the subscriber pool.

(2) Improper financial arrangements:

(a) A license holder shall neither derive nor solicit any form of monetary profit or personal gain as a result of his/her professional relationship with clients or immediate ex-clients, beyond the payment of fees for psychological services rendered. However, unsolicited token gifts from a client are permissible.

(b) A license holder shall not use his/her professional relationship with clients or immediate ex-clients to derive personal gain, other than through fees for professional services, for himself/herself, or for any other person, or for any organization from the sale or promotion of a non psychology-related product or service.

(c) A license holder shall neither give nor receive any commission, rebate, or other form of remuneration for referral of a client for professional services, without full disclosure in advance to the client of the terms of such an agreement.

(d) A license holder shall not bill for services that are not rendered. However, he/she may bill for missed appointments that the client did not cancel in advance, if this is part of the financial arrangements made in accordance with paragraph (D)(1)(a) of this rule.

(E) Multiple relationships. A multiple relationship exists when a license holder is in a professional psychological role pursuant to paragraph (R) of rule 4732-3-01 of the Administrative Code and is in another relationship with the same person or entity or with an individual closely associated with the person or entity. Depending on the timing and nature of one's interactions before or after the establishment of a professional psychological role, multiple relationships can result in exploitation of others, impaired judgment by clients, supervisees and evaluees, and/or impaired judgment, competence and objectivity of the psychologist or school psychologist. Psychologists and school psychologists actively identify and manage interpersonal boundaries to ensure that there is no exploitation of others and that professional judgment, competence, and objectivity within one's professional psychological roles are not compromised.

(1) In some communities and situations, unavoidable interpersonal contacts can occur due to cultural, linguistic, or geographical considerations. For purposes of this rule, incidental contacts in the personal life of a license holder with persons with whom there is or was a professional psychological role are not relationships. Nothing in this rule shall be construed to mean that a license holder is prohibited from undertaking a professional psychological role in an emergency situation, including effecting an appropriate referral when necessary to foster the welfare of others.

(2) Prohibited multiple relationships. The board prescribes that certain multiple relationships are expressly prohibited due to inherent risks of exploitation, impaired judgment by clients, supervisees and evaluees, and/or impaired judgment, competence or objectivity of the license holder.

(a) A license holder shall not:

(i) Undertake a professional psychological role with persons with whom he/she has engaged in sexual intercourse or other sexual intimacies; or

(ii) Undertake a professional psychological role with persons with whom he/she has had a familial, personal, social, supervisory, employment, or other relationship, and the professional psychological role results in: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a license holder.

(b) A license holder shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any current client, supervisee, evaluee, or with any person closely associated with a current client, supervisee, or evaluee; or

(ii) Establish any personal, financial, employment, or other relationship with any current client, supervisee, or evaluee, or with any individual closely associated with a current client, supervisee, or evaluee and the multiple relationship results in: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a license holder.

(c) A license holder shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any person with whom there has been a professional psychological role at any time within the previous twenty-four months; or

(ii) Enter into any personal, financial, employment or other relationship (other than reestablishing a professional psychological role) with any person with whom there has been a professional psychological role at any time within the previous twenty-four months and the multiple relationship results in: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a psychologist or school psychologist.

(d) A license holder shall not terminate or interrupt a professional role with any person for the purpose, expressed or implied, of entering into a sexual, personal, or financial relationship with that person or any individual closely associated with that person.

(e) The prohibitions established in paragraphs (E)(2)(b) and (E)(2)(c) of this rule extend indefinitely beyond twenty-four months after termination of the professional role if the person, secondary to emotional, mental, or cognitive impairment, remains vulnerable to exploitative influence.

(F) Testing and test interpretation:

(1) Assessment procedures:

(a) A license holder shall treat the results or interpretations of assessment regarding an individual as confidential information.

(b) A license holder shall accompany communication of results of assessment procedures to a client, or the parents, legal guardians, or other agents of the client with adequate interpretive aids or explanations in language these persons can understand.

(c) A license holder shall include in his/her report of the results of a test or assessment procedures any reservations regarding the possible inappropriateness of the test for the person assessed.

(d) A license holder offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering with a manual or other printed material that fully describes the development of the assessment procedure or service, its rationale, evidence of validity and reliability, and characteristics of the normative

population. A license holder shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. A license holder shall ensure that any advertisements for the assessment procedure or interpretive service are factual and descriptive. Such services are to be considered as a professional-to-professional consultation. A license holder shall make and document reasonable efforts to avoid misuse of such assessment reports.

(e) Psychologists shall not prepare personnel reports and recommendations based on test data secured solely by mail , unless such appraisals are an integral part of a continuing client relationship with a company, as a result of which the consulting psychologist has intimate knowledge of the client's personnel situation and can be assured thereby that his/her written appraisals will be adequate to the purpose and will be properly interpreted by the client. These reports shall not be embellished with such comprehensive analyses of the subject's personality traits as would be appropriate only after intensive interviews with the subject.

(f) A license holder shall choose only appropriate tests and give them only for a justifiable purpose to the benefit of a client.

(2) Test security. Psychological tests and other assessment devices shall not be reproduced or described in popular publications in ways that might invalidate the techniques. Test materials means manuals, instruments, protocols, and test questions or stimuli and does not include test data except as specified in paragraph (F)(3)(a) of rule 4732-17-01 of the Administrative Code. License holders make reasonable efforts to maintain the integrity and security of test materials and other assessment techniques consistent with law and contractual obligations. Access to such devices is limited to persons with professional interests who will safeguard their use.

(a) Sample items made up to resemble those of tests being discussed may be reproduced in popular articles and elsewhere, but scorable tests and actual test items shall not be reproduced except in professional publications.

(b) A license holder is responsible for the security of psychologist tests and other devices and procedures used for instructional purposes.

(c) License holders shall not permit inadequately supervised use of psychological tests or assessment measures unless the measure is designed, intended, and validated for self-administration and self-administration is supported by the instructions of the test publisher.

(3) Test interpretation.

(a) Test scores, like test materials, may be released to another person or an organization only in a manner that adheres to the client's rights to confidentiality as set forth in paragraph (G) of this rule.

(b) Test results or other assessment data used for evaluation or classification are communicated to employers, relatives, or other appropriate persons in such a manner as to guard against misinterpretation or misuse. License holders when interpreting and communicating assessment results take into account the purpose of the assessment as well as various test factors, test-taking abilities, and other characteristics of the person being assessed, such as situational, personal, linguistic, and cultural differences, that might affect professional judgments or reduce the accuracy of interpretations, and significant limitations of interpretations are indicated.

(c) A license holder always respects the client's or guardian's right to know the results, the interpretations made, his/her conclusions, and the bases for his/her recommendations. When a license holder provides verbal communication of assessment results in the absence of a written report, this event shall be documented in the client record.

(G) Confidentiality

(1) Confidential information is information revealed by an individual or individuals or otherwise obtained by a license holder, when there is a reasonable expectation that it was revealed or obtained as a result of the professional

relationship between the individual(s) and the license holder. Such information is not to be disclosed by the license holder without the informed consent of the individual(s).

(a) When rendering psychological services as part of a team or when interacting with other appropriate professionals concerning the welfare of a client, a license holder may share confidential information about the client provided that reasonable steps are taken to ensure that all persons receiving the information are informed about the confidential nature of the information being shared and agree to abide by the rules of confidentiality.

(b) When any case report or other confidential information is used as the basis of teaching, research, or other published reports, a license holder shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client or subject identification.

(c) A license holder shall ensure that no diagnostic interview or therapeutic sessions with a client are observed or electronically recorded without first informing the client or the client's guardian obtaining and documenting written consent from same.

(d) A license holder shall limit access to client records and shall ensure that all persons working under his/her authority comply with the requirements for confidentiality of client material.

(e) A license holder shall continue to treat all information regarding a client as confidential after the professional relationship between the psychologist or school psychologist and the client has ceased.

(f) In a situation in which more than one party has an appropriate interest in the professional services rendered by a license holder to a client, the license holder shall, to the extent possible, clarify to all parties the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(i) Such clarification is specifically indicated, among other circumstances, when the client is an organization or when the client has been referred by a third party.

(ii) In accord with paragraphs (C)(3) and (F)(3)(c) of this rule, a license holder shall clarify with the individual receiving services because of a third-party referral whether, and under what conditions-including costs, information or feedback will be provided to the individual receiving those psychological services.

(2) Protecting confidentiality of clients. In accordance with section 4732.19 of the Revised Code, the confidential relations and communications between license holders and clients are placed under the same umbrella of a privilege as those between physician and patient under division (B) of section 2317.02 of the Revised Code. The privilege is intended to protect the interest of the client by encouraging free disclosure to the license holder and by preventing such free disclosure to others. Thus, the client rather than the license holder holds and may assert the privilege.

(a) A license holder shall not testify concerning a communication made to him/her by a client. The license holder may testify by express consent of the client or legal guardian or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of such deceased client. If the client voluntarily testifies, the license holder may be compelled to testify on the same subject; or if the client, the executor or administrator files a claim against the license holder, such filing shall constitute a waiver of the privilege with regard to the services about which complaint is made.

(b) Court decisions construing the scope of the physician-patient privilege, pursuant to section 2317.02 of the Revised Code, are applicable to this privilege between the license holder and the client.

(c) A license holder may disclose confidential information without the informed written consent of a client when the license holder judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on himself/herself or on another person. In such case, the license holder may disclose the confidential information only to appropriate public authorities, the potential victim, professional workers, and/or the family of the client.

(d) A license holder shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional duties. With the exceptions as required or permitted by statute, a license holder shall disclose confidential information to others only with the informed written consent of the client.

(e) At the beginning of a professional relationship a license holder shall inform his/her client of the legal limits of confidentiality. To the extent that the client can understand, the license holder shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality. When services are provided to more than one patient or client during a joint session (for example to a family or couple, or parent and child, or group), a license holder shall, at the beginning of the professional relationship, clarify to all parties the limits of confidentiality.

(f) Minor clients who are offered privacy as a means of facilitating free disclosure of information shall be told by the license holder that the parent(s) and/or guardian(s) have a right to access their records, unless otherwise prohibited by court order, statute, or rule. The license holder shall document in the record this disclosure to the minor client.

(g) A license holder may release confidential information upon court order or to conform with state or federal laws, rules, or regulations.

(h) A license holder shall be familiar with any relevant law concerning the reporting of abuse of children or vulnerable adults.

(H) Competence:

(1) Limits on practice. A license holder shall limit his/her professional practice to those specialty areas in which competence has been gained through education, training, and experience. If important aspects of the client's problem fall outside the boundaries of competence, then the license holder assists his/her client in obtaining additional professional help.

(2) Specialty standard of care. A license holder shall exercise sound judgment and care in determining what constitutes his/her area(s) of competence. A guiding principle is that one who undertakes practice in a given specialty area will be held to the standard of care within that specialty while he/she is practicing in that area.

(3) Maintaining competency. A license holder shall maintain current competency in the areas in which he/she practices, through continuing education, consultation, and/or other training, in conformance with current standards of scientific and professional knowledge.

(4) Adding new services and techniques. A license holder, when developing competency in a new area or in a new service or technique, shall engage in ongoing consultation with other psychologists, school psychologists, or appropriate professionals and shall seek continuing education in the new area, service or technique. A license holder shall inform any client whose treatment will involve a newly developing service or technique of its innovative nature and the known risks concerning those services and shall document informed consent provided by the client or legal guardian.

(5) Limits on practice under school psychologist license. A school psychologist who does not hold a psychologist license shall not practice beyond the scope of the school psychologist license, as defined in division (E) of section 4732.01 of the Revised Code.

(6) Referrals. A license holder shall make or recommend referral to other professional, technical, or administrative resources when such referral is in the best interests of the client.

(7) Interprofessional relations. A license holder shall neither establish nor offer to establish a continuing treatment relationship with a person receiving mental health services from another professional, except with the knowledge of the other professional or after the termination of the client's relationship with the other professional.

(I) Telepsychology.

(1) "Telepsychology" means the practice of psychology or school psychology as those terms are defined in divisions (B) and (E) of section 4732.01 of the Revised Code, including psychological and school psychological supervision, by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.

(2) In order to practice telepsychology in the state of Ohio one must hold a current, valid license issued by the Ohio board of psychology or shall be a registered supervisee of a licensee being delegated telepsychology practices in compliance with paragraphs (B) and (C) of rule 4732-13-04 of the Administrative Code.

(3) License holders understand that this rule does not provide licensees with authority to practice telepsychology in service to clients domiciled in any jurisdiction other than Ohio, and licensees bear responsibility for complying with laws, rules, and/or policies for the practice of telepsychology set forth by other jurisdictional boards of psychology.

(4) License holders practicing telepsychology shall comply with all of these rules of professional conduct and with requirements incurred in state and federal statutes relevant to the practice of psychology and school psychology.

(5) License holders shall establish and maintain current competence in the professional practice of telepsychology through continuing education, consultation, or other procedures, in conformance with prevailing standards of scientific and professional knowledge. License holders shall establish and maintain competence in the appropriate use of the information technologies utilized in the practice of telepsychology.

(6) License holders recognize that telepsychology is not appropriate for all psychological problems and clients, and decisions regarding the appropriate use of telepsychology are made on a case-by-case basis. License holders practicing telepsychology are aware of additional risks incurred when practicing psychology or school psychology through the use of distance communication technologies and take special care to conduct their professional practice in a manner that protects the welfare of the client and ensures that the client's welfare is paramount. License holders practicing telepsychology shall:

(a) Conduct a risk-benefit analysis and document findings specific to:

(i) Whether the client's presenting problems and apparent condition are consistent with the use of telepsychology to the client's benefit; and

(ii) Whether the client has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.

(b) Not provide telepsychology services to any person or persons when the outcome of the analysis required in paragraphs (I)(6)(a)(i) and (I)(a)(ii) of this rule is inconsistent with the delivery of telepsychology services, whether related to clinical or technological issues.

(c) Upon initial and subsequent contacts with the client, make reasonable efforts to verify the identity of the client;

(d) Obtain alternative means of contacting the client;

(e) Provide to the client alternative means of contacting the licensee;

(f) Establish a written agreement relative to the client's access to face-to-face emergency services in the client's geographical area, in instances such as, but not necessarily limited to, the client experiencing a suicidal or homicidal crisis;

(g) Licensees, whenever feasible, use secure communications with clients, such as encrypted text messages via email or secure websites and obtain and document consent for the use of non-secure communications.

(h) Prior to providing telepsychology services, obtain the written informed consent of the client, in language that is likely to be understood and consistent with accepted professional and legal requirements, relative to:

(i) The limitations and innovative nature of using distance technology in the provision of psychological or school psychological services;

(ii) Potential risks to confidentiality of information due to the use of distance technology;

(iii) Potential risks of sudden and unpredictable disruption of telepsychology services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;

(iv) When and how the licensee will respond to routine electronic messages;

(v) Under what circumstances the licensee and service recipient will use alternative means of communications under emergency circumstances;

(vi) Who else may have access to communications between the client and the licensee;

(vii) Specific methods for ensuring that a client's electronic communications are directed only to the licensee or supervisee;

(viii) How the licensee stores electronic communications exchanged with the client;

(7) Ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data;

(8) If in the context of a face-to-face professional relationship the following are exempt from this rule:

(a) Electronic communication used specific to appointment scheduling, billing, and/or the establishment of benefits and eligibility for services; and,

(b) Telephone or other electronic communications made for the purpose of ensuring client welfare in accord with reasonable professional judgment.

(J) Violations of law:

(1) Violation of applicable statutes. A license holder shall not violate any applicable statute or administrative rule regulating the practice of psychology or school psychology.

(2) Use of fraud, misrepresentation, or deception. A license holder shall not use fraud, misrepresentation, or deception in obtaining a psychology or school psychology license, in taking a psychology or school psychology licensing examination, in assisting another to obtain a psychology or school psychology license or to take a psychology or school psychology licensing examination, in billing clients or third-party payers, in providing psychological or school psychological services, in reporting the results of those services, or in conducting any other activity related to the practice of psychology or school psychology.

(K) Aiding illegal practice:

(1) Aiding unauthorized practice. A license holder shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of psychology or school psychology.

(2) Delegating professional responsibility. A license holder shall not delegate professional responsibilities to a person not qualified and/or not appropriately credentialed to provide such services.

(3) Providing supervision. A license holder shall exercise appropriate supervision over supervisees, as set forth in the rules of the board.

(4) Reporting of violations to board. A license holder who has substantial reason to believe that another license holder or psychological or school psychological supervisee has committed an apparent violation of the statutes or rules of the board that has substantially harmed or is likely to substantially harm a person or organization shall so inform the

board in writing; however, when the information regarding such violation is obtained in a professional relationship with a client, the license holder shall report it only with the written permission of the client. Under such circumstances the license holder shall advise the client of the name, address, and telephone number of the state board of psychology and of the client's right to file a complaint. The license holder shall make reasonable efforts to guide and/or facilitate the client in the complaint process as needed or requested by the client. Nothing in this rule shall relieve a license holder from the duty to file any report required by applicable statutes.

(L) Supervision. Rules 4732-13-01, 4732-13-02, 4732-13-03, and 4732-13-04 of the Administrative Code, pertaining to supervision of persons performing psychological or school psychological work, shall be considered as a part of these rules of professional conduct.

Effective: 6/8/2015
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4732-17-01.1 Youth sports concussion assessment and clearance.

(A) For purposes of this rule:

(1) "Interscholastic athletics" means an interscholastic extracurricular activity that a school district sponsors or participates in that includes participants from more than one school or school district.

(2) "Youth sports organization" has the same meaning as in section 3707.51 of the Revised Code and means a public or nonpublic entity that organizes an athletic activity in which the athletes are not more than nineteen years of age and are required to pay a fee to participate in the athletic activity or whose cost to participate is sponsored by a business or nonprofit organization.

(3) "Youth" means an individual between the ages of four and nineteen who participated in interscholastic athletics or in a youth sports organization activity and was removed from practice or competition under division (D) of section 3707.511 of the Revised Code or division (D) of section 3313.539 of the Revised Code, based on exhibiting signs, symptoms, or behaviors consistent with having sustained a concussion or other brain injury while participating in practice or competition.

(4) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(5) "Zurich guidelines" means the consensus statement on concussion in sport: The 4th international conference on concussion in sport held in Zurich, November 2012.

(B) Psychologists may assess and clear a youth to return to practice or competition if the following requirements are met:

(1) The psychologist has education, training and experience specific to concussion identification, the clinical features of concussion, assessment including neuropsychological testing and test interpretation, sports concussion management, and the principles of safe return to play protocols consistent with the Zurich guidelines or subsequent updated consensus statements published following future meetings of the international conference on concussion in sport; and

(2) The psychologist maintains competence to assess and clear youth in accordance with this rule through consultation, peer supervision and/or continuing education activities in the areas of concussion identification, the clinical features of concussion, assessment including neuropsychological testing and test interpretation, sports concussion management, and the principles of safe return to play protocols consistent with the Zurich guidelines or

subsequent updated consensus statements published following future meetings of the international conference on concussion in sport; and

(3) Pursuant to sections 3313.539 and 3707.511 of the Revised Code, assessments and clearances are done pursuant to a referral from or in consultation or collaboration with a physician.

(C) The board recommends that psychologists who conduct concussion assessments and return-to-play clearances of youth in accordance with this rule do both of the following:

(1) Ensure that a portion of the continuing education requirements for biennial license registration enumerated in section 4732.141 of the Revised Code include instruction in one or more of the areas listed in paragraph (B)(1) of this rule.

(2) Use the medical return to play after suspected concussion form located on the Ohio department of health website at http://healthy.ohio.gov.vipp/concussion.aspx (March 2015).

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Rule Amplifies: 3313.539 , 3707.511 , 3707.521, 4732.10

4732-17-02 Research ethics and safeguards.

(A) Institutional approval. When institutional approval is required, license holders provide accurate information about their research proposals and obtain approval prior to conducting the research. They conduct the research in accordance with the approved research protocol.

(B) Informed consent to research. When obtaining informed consent license holders inform participants about:

(1) The purpose of the research, expected duration, and procedures;

(2) Their right to decline to participate and to withdraw from the research once participation has begun;

(3) The foreseeable consequences of declining or withdrawing;

(4) Reasonably foreseeable factors that may be expected to influence their willingness to participate such as potential risks, discomfort, or adverse effects;

(5) Any prospective research benefits;

(6) Limits of confidentiality;

(7) Incentives for participation; and

(8) Whom to contact for questions about the research and research participants' rights. They provide opportunity for the prospective participants to ask questions and receive answers.

(C) License holders conducting intervention research involving the use of experimental treatments clarify to participants at the outset of the research:

(1) The experimental nature of the treatment;

(2) The services that will or will not be available to the control group(s) if appropriate;

(3) The means by which assignment to treatment and control groups will be made;

(4) Available treatment alternatives if an individual does not wish to participate in the research or wishes to withdraw once a study has begun; and

(5) Compensation for or monetary costs of participating including, if appropriate, whether reimbursement from the participant or a third-party payor will be sought.

(D) Informed consent for recording voices and images in research. License holders obtain informed consent from research participants prior to recording their voices or images for data collection unless:

(1) The research consists solely of naturalistic observations in public places, and it is not anticipated that the recording will be used in a manner that could cause personal identification or harm; or

(2) The research design includes deception, and consent for the use of the recording is obtained during debriefing.

(E) Client/patient, student, and subordinate research participants.

(1) When license holders conduct research with clients/patients, students, or subordinates as participants, license holders take steps to protect the prospective participants from adverse consequences of declining or withdrawing from participation;

(2) When research participation is a course requirement or an opportunity for extra credit, the prospective participant is given the choice of equitable alternative activities.

(F) Dispensing with informed consent for research. License holders may dispense with informed consent only where research would not reasonably be assumed to create distress or harm and involves :

(1) The study of normal educational practices, curricula, or classroom management methods conducted in educational settings;

(2) Only anonymous questionnaires, naturalistic observations, or archival research for which disclosure of responses would not place participants at risk of criminal or civil liability or damage their financial standing, employability, or reputation, and confidentiality is protected; or

(3) The study of factors related to job or organization effectiveness conducted in organizational settings for which there is no risk to participants' employability, and confidentiality is protected; or

(4) Where otherwise permitted by law or federal or institutional regulations.

(G) Offering inducements for research participation.

(1) License holders make reasonable efforts to avoid offering excessive or inappropriate financial or other inducements for research participation when such inducements are likely to coerce participation;

(2) When offering professional services as an inducement for research participation, license holders clarify the nature of the services, as well as the risks, obligations, and limitations.

(H) Deception in research.

(1) License holders do not conduct a study involving deception unless they have determined that the use of deceptive techniques is justified by the study's significant prospective scientific, educational, or applied value and that effective non-deceptive alternative procedures are not feasible;

(2) License holders do not deceive prospective participants about research that is reasonably expected to cause physical pain or severe emotional distress;

(3) License holders explain any deception that is an integral feature of the design and conduct of an experiment to participants as early as is feasible, preferably at the conclusion of their participation, but no later than at the conclusion of the data collection, and permit participants to withdraw their data.

(I) Debriefing.

(1) License holders provide a prompt opportunity for participants to obtain appropriate information about the nature, results, and conclusions of the research, and they take reasonable steps to correct any misconceptions that participants may have of which the license holders are aware;

(2) If scientific or humane values justify delaying or withholding this information, license holders take reasonable measures to reduce the risk of harm; and

(3) When license holders become aware that research procedures have harmed a participant, they take reasonable steps to minimize the harm.

(J) Humane care and use of animals in research.

(1) License holders acquire, care for, use, and dispose of animals in compliance with current federal, state, and local laws and regulations, and with professional standards;

(2) License holders trained in research methods and experienced in the care of laboratory animals supervise all procedures involving animals and are responsible for ensuring appropriate consideration of their comfort, health, and humane treatment;

(3) License holders ensure that all individuals under their supervision who are using animals have received instruction in research methods and in the care, maintenance, and handling of the species being used, to the extent appropriate to their role;

(4) License holders make reasonable efforts to minimize the discomfort, infection, illness, and pain of animal subjects;

(5) License holders use a procedure subjecting animals to pain, stress, or privation only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, educational, or applied value;

(6) License holders perform surgical procedures under appropriate anesthesia and follow techniques to avoid infection and minimize pain during and after surgery;

(7) When it is appropriate that an animal's life be terminated, license holders proceed rapidly, with an effort to minimize pain and in accordance with accepted procedures;

(K) Reporting research results.

(1) License holders do not fabricate data;

(2) If license holders discover significant errors in their published data, they take reasonable steps to correct such errors in a correction, retraction, erratum, or other appropriate publication means.

(L) Plagiarism. License holders do not present portions of another's work or data as their own, even if the other work or data source is cited occasionally.

(M) Publication credit.

(1) License holders take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have substantially contributed;

(2) Principal authorship and other publication credits accurately reflect the relative scientific or professional contributions of the individuals involved, regardless of their relative status. Mere possession of an institutional position, such as department chair, does not justify authorship credit. Minor contributions to the research or to the writing for publications are acknowledged appropriately, such as in footnotes or in an introductory statement.

(3) Except under exceptional circumstances, a student is listed as principal author on any multiple-authored article that is substantially based on the student's doctoral dissertation. Faculty advisors discuss publication credit with students as early as feasible and throughout the research and publication process as appropriate.

(N) Duplicate publication of data. License holders do not publish, as original data, data that have been previously published. This does not preclude republishing data when they are accompanied by proper acknowledgment.

(O) Sharing research data for verification.

(1) After research results are published, license holders do not withhold the data on which their conclusions are based from other competent professionals who seek to verify the substantive claims through reanalysis and who intend to use such data only for that purpose provided that the confidentiality of the participants can be protected and unless legal rights concerning proprietary data preclude their release. This does not preclude license holders from requiring that such individuals or groups be responsible for costs associated with the provision of such information;

(2) License holders who request data from other license holders to verify the substantive claims through reanalysis may use shared data only for the declared purpose. Requesting license holders obtain prior written agreement for all other uses of the data.

(P) Reviewers. License holders who review material submitted for presentation, publication, grant, or research proposal review respect the confidentiality of and the proprietary rights in such information of those who submitted it.

Replaces: 4732-17-02

Effective: 6/8/2015
Five Year Review (FYR) Dates: 09/18/2019
Promulgated Under: 119.03
Statutory Authority: 4732.06
Rule Amplifies: 4732.06, 4732.17
Prior Effective Dates: 4/14/75, 10/1/90

4732-17-03 Bases and procedures for disciplinary actions.

(A) In accordance with section 4732.17 of the Revised Code, after considering charges filed by the secretary and after providing a hearing in accordance with Chapter 119. of the Revised Code, the board may refuse to issue a license to any applicant, including any person whose license has expired, placed in retired status, or has been revoked or suspended, or may issue a reprimand, or suspend or revoke the license of any licensed psychologist or licensed school psychologist, on any of the grounds enumerated in division (A) of section 4732.17 of the Revised Code.

(B) Notice and hearing requirements incident to the revocation, suspension, or refusal to issue, reinstate, or renew a license to practice psychology or school psychology, or incident to the reprimand of a licensee, as described in paragraph (A) of this rule, shall be in compliance with the provisions of Chapters 119. and 4732. of the Revised Code, including the following:

(1) Notice of opportunity. Notice shall be given to the licensee or applicant for licensure by certified mail of the right to a hearing on the question of whether or not the license should be revoked, suspended, not reinstated, or denied, or whether, if a licensee, he/she should be reprimanded;

(2) Charges. The notice shall include the charges or other reasons for such proposed action, the law(s) and/or rule(s) directly involved, and a statement informing the licensee or applicant for licensure that he/she is entitled to a hearing, if it is requested within thirty days after the date of mailing the notice.

(3) Representation. The notice shall also inform the licensee or applicant for licensure that at the hearing he/she may appear in person, or be represented by his/her attorney, or may present his/her position, arguments, or contentions in writing and that at the hearing he/she may present evidence and examine witnesses appearing for and against him/her;

(4) Hearing date. Whenever a licensee or applicant for licensure requests a hearing, the board shall immediately set the date, time, and place for such hearing and forthwith notify the licensee or applicant for licensure thereof. The date set for such hearing shall be within fifteen days, but not earlier than seven days, after the licensee or applicant for licensure has requested a hearing, unless otherwise agreed to by both the board and the licensee or applicant for licensure. However, the board may postpone or continue any adjudication hearing upon the application of any party or upon its own motion;

(5) Hearing. The board may empower any one or more of its members to conduct any proceeding, hearing, or investigation necessary to its purposes;

(6) Appeal. Any party adversely affected by any order of the board issued pursuant to an adjudication hearing may appeal from the order of the board to the court of common pleas of the county in which the place of business of the licensee or applicant for licensure is located or the county in which the licensee or applicant for licensure is a resident. If any such party is not a resident of and has no place of business in Ohio, he/she may appeal to the court of common pleas of Franklin county, Ohio. Any party desiring to appeal shall file a notice of appeal with the board setting forth the order appealed from and the grounds of the appeal. A copy of such notice of appeal shall also be filed by appellant with the court. Such notices of appeal shall be filed within fifteen days after the mailing of the notice of the board's order.

(C) If the board receives notice pursuant to section 2301.373 of the Revised Code, effective November 15, 1996, that an individual is in default under a child support order, the board will refuse to issue or renew any license for that individual and will suspend any current license of that individual as required by that section. The board need determine only that the individual named in the notice received pursuant to section 2301.373 of the Revised Code is the same individual applying for issuance or renewal of a license or holding a current license. The procedures applicable to refusal to issue or renew a license or suspend a license pursuant to section 2301.373 of the Revised Code shall be governed only by that section and, therefore, are not subject to the procedures set forth in Chapter 119. or section 4732.17 of the Revised Code, or paragraphs (A) and/or (B) of this rule.

(D) Pre-hearing procedures

(1) Exchange of documents and witness lists

(a) Any representative of record may serve upon the opposing representative of record a written request for a list of both the witnesses and the documents intended to be introduced at hearing. All lists requested under this rule shall be exchanged no later than seven days prior to the commencement of the administrative hearing.

(b) Failure without good cause to comply with paragraph (A) of this rule may result in exclusion from the hearing of such testimony or documents, upon motion of the representative to whom disclosure is refused.

(2) Pre-hearing conference

(a) At any time prior to hearing, the attorney hearing examiner or presiding board member may direct participation by the representatives of record in a prehearing conference. Such conference may be initiated by the attorney hearing examiner, by the board, or upon motion of either representative.

(b) Pre-hearing conferences may be held for the following purposes:

(i) Identification of issues;

(ii) Obtaining stipulations and admissions;

(iii) Agreements limiting the number of witnesses; Discussion of documents, exhibits, and witness lists;

(iv) Discussion of documents, exhibits, and witness lists;

(v) Estimating the time necessary for hearing;

(vi) Discussion of any other matters tending to expedite the proceedings.

(c) All representatives of record shall attend the prehearing conference fully prepared to discuss the items enumerated in paragraph (B) of this rule.

(d) Procedural orders may be issued by the attorney hearing examiner or presiding board member based upon information obtained at a prehearing conference.

(3) Requirements for pre-hearing exchange of information. The hearing examiner or presiding board member shall, upon written motion of any representative of a party, issue an order setting forth a schedule by which the parties shall exchange hearing exhibits, identify lay and expert witnesses and exchange written reports from expert witnesses. Any written report by an expert required to be exchanged shall set forth the opinions to which the expert will testify and the bases for such opinions. The failure of a party to produce a written report from an expert under the terms of the order shall result in the exclusion of that expert's testimony at hearing. The failure of a party to produce an exhibit under the terms of the order shall result in the exclusion of that exhibit from evidence. The failure of a party to identify a lay or expert witness under the terms of the order may result in the exclusion of that witness' testimony at hearing.

(4) Status conference. With or without written motion from the representative of any party, the attorney hearing examiner or presiding board member may convene a status conference with representatives of the parties to address any matter related to preparation for hearing or the conduct of a hearing. The hearing examiner may issue such orders related to preparation for hearing and the conduct of the hearing which in the judgment of the hearing examiner facilitate the just and efficient disposition of the subject of the hearing.

(5) Depositions and transcripts of prior testimony.

(a) Upon written motion of any representative of record, and upon service of that motion to all other representatives, the attorney hearing examiner may order that the testimony of a prospective witness be taken by deposition under such conditions and terms as specified in the order and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place if it appears probable that:

(i) The prospective witness will be unavailable to attend or will be prevented from attending a hearing; and

(ii) The testimony of the prospective witness is material; and

(iii) The testimony of the prospective witness is necessary in order to prevent a failure of justice. In the case of an expert witness, a showing of the unavailability of the expert shall not be necessary for consideration of the motion of a representative to take a deposition.

(b) The representatives shall agree to the time and place for taking the deposition in lieu of live testimony. Depositions shall be conducted in the same county in which the hearing is conducted unless otherwise agreed to by the representatives. If the representatives are unable to agree, the attorney hearing examiner or presiding board member shall set the time or fix the place of deposition. At a deposition taken pursuant to this rule, representatives shall have the right, as at hearing, to fully examine witnesses. The attorney hearing examiner has the discretion to be present at the deposition in lieu of testimony at hearing.

(c) A deposition taken under this rule shall be filed with the board not later than one day prior to hearing, and may be offered into evidence at hearing by either representative in lieu of the prospective witness' personal appearance. The cost of preparing a transcript of any testimony taken by deposition in lieu of live testimony which is offered as evidence at the hearing shall be borne by the board. In the event of appeal, such costs shall be made a part of the cost of the hearing record. The expense of any video deposition shall be borne by the requestor.

(d) Any deposition or transcript of prior testimony of a witness may be used for the purpose of refreshing the recollection, contradicting the testimony or impeaching the credibility of that witness. If only a part of a deposition is offered into evidence by a representative, the opposing representative may offer any other part. Nothing in this paragraph shall be construed to permit the taking of depositions for purposes other than those set forth in paragraph (A) of this rule.

(e) A transcript of testimony and exhibits from a prior proceeding may be introduced for any purpose if that prior proceeding forms the basis for the allegations in the current case. Upon offering part of a transcript or exhibit from a prior proceeding, the offering representative may be required by the opposing representative to present any other part of the offered item which should in fairness be considered contemporaneously with it.

(6) Prior action by the board. The attorney hearing examiner or presiding board member shall admit evidence of any prior action entered by the state board of psychology against the respondent.

(7) Stipulation of facts. Representatives of record may, by stipulation, agree on any or all facts involved in proceedings before the attorney hearing examiner or presiding board member. Thereafter the attorney hearing examiner or presiding board member may require development of any fact deemed necessary for just adjudication.

(8) Witnesses.

(a) All witnesses shall testify under oath or affirmation.

(b) A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent is limited to protection of that witness' rights, and that legal counsel may neither examine nor cross-examine any witnesses.

(c) Should a witness refuse to answer a question ruled proper at a hearing or disobey a subpoena, the board may institute contempt proceedings pursuant to section 119.09 of the Revised Code.

(d) The presiding attorney hearing examiner or any board member, because of his or her duties, shall not be a competent witness nor subject to deposition in any adjudication proceeding. Unless the testimony of a board member or an attorney hearing examiner is material to the factual allegations set forth in the notice of opportunity for hearing, board members and attorney hearing examiners shall not be competent witnesses nor subject to deposition in any adjudication proceeding. Evidence from other persons relating to the mental processes of the presiding attorney hearing examiner or board members shall not be admissible.

(e) Any representative of record may move for a separation of witnesses. Expert witnesses shall not be separated.

(f) Each representative of record shall inform the attorney hearing examiner or presiding board member prior to the commencement of a hearing of the identity of each potential witness for his cause present in the hearing room. Failure to so identify potential witnesses at this time may be grounds for their later disqualification as witnesses.

(g) No witnesses shall be permitted to testify as to the nature, extent, or propriety of disciplinary action to be taken by the board. A witness may, in the discretion of the attorney hearing examiner or presiding board member, testify as to an ultimate issue of fact.

(9) Conviction of a crime. A certified copy of a plea of guilty to, or a judicial finding of guilt of any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime.

(10) The "Ohio Rules of Evidence" may be taken into consideration by the board or its attorney hearing examiner in determining the admissibility of evidence, but shall not be controlling. The attorney hearing examiner or presiding board member may permit the use of electronic or photographic means for the presentation of evidence.

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Standards of Practice Review (continued)

Florida Statutes Chapter 490: Psychology

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490.003 Definitions.—As used in this chapter:

(1) "Board" means the Board of Psychology.

(2) "Department" means the Department of Health.

(3)(a) Prior to July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:

1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs.

(b) Effective July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:

1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an agency recognized and approved by the United States Department of Education.

(4) "Practice of psychology" means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. The ethical practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one's affairs and to participate in legal proceedings; counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy; psychoeducational evaluation, therapy, remediation, and consultation; and use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.

(a) Psychological services may be rendered to individuals, couples, families, groups, and the public without regard to place of service.

(b) The use of specific modalities within the practice of psychology is restricted to psychologists appropriately trained in the use of such modalities.

(c) The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is requested or received for services rendered.

(5) "Practice of school psychology" means the rendering or offering to render to an individual, a group, an organization, a government agency, or the public any of the following services:

(a) Assessment, which includes psychoeducational, developmental, and vocational assessment; evaluation and interpretation of intelligence, aptitudes, interests, academic achievement, adjustment, and motivations, or any other attributes, in individuals or groups, that relate to learning, educational, or adjustment needs.

(b) Counseling, which includes short-term situation-oriented professional interaction with children, parents, or other adults for amelioration or prevention of learning and adjustment problems. Counseling services relative to the practice of school psychology include verbal interaction, interviewing, behavior techniques, developmental and vocational intervention, environmental management, and group processes.

(c) Consultation, which includes psychoeducational, developmental, and vocational assistance or direct educational services to schools, agencies, organizations, families, or individuals related to learning problems and adjustments to those problems.

(d) Development of programs, which includes designing, implementing, or evaluating educationally and psychologically sound learning environments; acting as a catalyst for teacher involvement in adaptations and innovations; and facilitating the psychoeducational development of individual families or groups.

(6) "Provisional psychologist licensee" means a person provisionally licensed under this chapter to provide psychological services under supervision.

(7) "Psychologist" means a person licensed pursuant to s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida.

(8) "School psychologist" means a person licensed pursuant to s. 490.005(2), s. 490.006, or the provision identified as s. 490.013(1) in s. 1, chapter 81-235, Laws of Florida.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 2, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 2, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 190, ch. 94-218; s. 3, ch. 95-279; s. 2, ch. 97-198; s. 194, ch. 97-264.

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490.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or to make available any relevant records with respect to any investigation about the licensee's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General, the State Surgeon General's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

(q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s) Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t) Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

History.—ss. 1, 3, ch. 81-235; s. 35, ch. 83-215; ss. 1, 3, ch. 83-265; s. 9, ch. 84-203; ss. 8, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 6, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 112, ch. 92-149; s. 8, ch. 95-279; s. 228, ch. 96-410; s. 1135, ch. 97-103; s. 6, ch. 97-198; s. 198, ch. 97-264; s. 150, ch. 98-166; s. 209, ch. 2000-160; s. 52, ch. 2001-277; s. 27, ch. 2005-240; s. 102, ch. 2008-6.

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490.0111 Sexual misconduct.—Sexual misconduct by any person licensed under this chapter, in the practice of her or his profession, is prohibited. Sexual misconduct shall be defined by rule.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 9, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 502, ch. 97-103.

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490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold herself or himself out by any professional title, name, or description incorporating the word "psychologist" unless such person holds a valid, active license as a psychologist under this chapter.

(b) No person shall hold herself or himself out by any professional title, name, or description incorporating the words "school psychologist" unless such person holds a valid, active license as a school psychologist under this chapter or is certified as a school psychologist by the Department of Education.

(c) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

(d) No person shall hold herself or himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced registered nurse practitioner, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

(e) No person licensed or provisionally licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him.

(2)(a) A licensed psychologist shall conspicuously display the valid, active license issued by the department or a true copy thereof at each location at which the licensee practices his or her profession.

(b) A licensed psychologist shall include the words "licensed psychologist" on all professional advertisements, including, but not limited to, advertisements in any newspaper, magazine, other print medium, airwave or broadcast transmission, or phone directory listing purchased by or on behalf of a person licensed according to this chapter.

(3)(a) A person provisionally licensed under this chapter as a provisional psychologist licensee shall conspicuously display the valid provisional license issued by the department or a true copy thereof at each location at which the provisional licensee is providing services.

(b) A provisional psychologist licensee shall include the words "provisional psychologist licensee" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the provisional licensee.

(4) Any person who violates any provision of this section, except for subsections (2) and (3), commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates any provision of subsection (2) or subsection (3) is subject to disciplinary action under s. 490.009.

(5) The department may institute appropriate proceedings to enjoin violation of subsection (1).

(6) No person shall practice psychology in this state, as such practice is defined in s. 490.003(4), for compensation, unless such person holds an active, valid license to practice psychology issued pursuant to this chapter. Nothing in this subsection shall be construed to limit the practice of school psychology, as such practice is defined in s. 490.003(5).

(7) No person shall practice school psychology in this state, as such practice is defined in s. 490.003(5), for compensation, unless such person holds an active, valid license to practice school psychology issued pursuant to this chapter.

(8) Effective October 1, 2000, a person may not practice juvenile sexual offender therapy in this state, as the practice is defined in s. 490.0145, for compensation, unless the person holds an active license issued under this chapter and meets the requirements to practice juvenile sexual offender therapy. An unlicensed person may be employed by a

program operated by or under contract with the Department of Juvenile Justice or the Department of Children and Family Services if the program employs a professional who is licensed under chapter 458, chapter 459, s. 490.0145, or s. 491.0144 who manages or supervises the treatment services.

History.—ss. 1, 3, ch. 81-235; ss. 1, 3, ch. 83-265; ss. 10, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 8, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 3, ch. 90-263; s. 4, ch. 91-429; s. 113, ch. 92-149; s. 503, ch. 97-103; s. 7, ch. 97-198; s. 199, ch. 97-264; s. 2, ch. 98-158; s. 125, ch. 2001-277.

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