Virginia Department of Health Professions
Board of Psychology

Agenda
Regulatory Committee Meeting

October 29, 2018
Board Room 4
1:00 p.m.

Call to Order – James Werth, Jr., Committee Chair

- Welcome and Introductions
- Emergency Egress Procedures — Page 2
- Mission of the Board — Page 3

Approval of Minutes

- Regulatory Committee Meeting – July 9, 2018* — Page 4

Ordering of Agenda

Public Comment

The Committee will receive public comment related to agenda items at this time. The Committee will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Unfinished Business

- Guidance Document on Assessment Titles and Signatures — Page 6
- Guidance Document on Telepsychology — Page 8
- Authority to Issue Temporary License

New Business

- Professional Wills — Page 14

Next Meeting

Meeting Adjournment

*Requires Committee Action

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 4

Exit the room using one of the doors at the back of the room. (**Point**) Upon exiting the room, turn **RIGHT.** Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Virginia Department of
Health Professions
Board of Psychology

Mission Statement

Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

VIRGINIA BOARD OF PSYCHOLOGY
REGULATORY COMMITTEE
DRAFT MEETING MINUTES
July 9, 2018

TIME AND PLACE: The Regulatory Committee of the Virginia Board of Psychology ("Board") convened for a meeting on Monday, July 9, 2018, at the Department of Health Professions (DHP), 9960 Mayland Drive, 2nd Floor, Board Room 4, Henrico, Virginia 23233. A quorum was established.

PRESIDING OFFICER: James Werth, Ph.D., ABPP, Regulatory Committee Chair

MEMBERS PRESENT: J.D. Ball, Ph.D., ABPP
Herbert Stewart, Ph.D., Board Chair
Susan Wallace Brown, Ph.D.
Jen Little

MEMBERS ABSENT: None

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

OTHERS PRESENT: Troilen G. Seward, Virginia Academy of School Psychologists (VASP)

CALL TO ORDER: Dr. Werth, Chair, called the meeting to order at 1:00 p.m. and read the emergency evacuation instructions.

Board members, staff, and members of the public introduced themselves.

PUBLIC COMMENT PERIOD: There was no public comment.

APPROVAL OF MINUTES: Dr. Stewart made a motion, which Dr. Ball properly seconded, to approve the May 7, 2018 Regulatory Committee Meeting minutes. The motion carried unanimously.

UNFINISHED BUSINESS: Guidance Document on Assessment Titles and Signatures
After discussion, the Committee determined that it would like to proceed with the Guidance Document, but it was worth determining whether the Board of Counseling would be willing to enter into a joint guidance document. Dr. Werth volunteered to reach out to the Board of Counseling Chair and the Board of Counseling Regulatory Committee chair, to gauge interest. Depending on their response, the Committee will decide at its October meeting to adopt its own guidance document or a joint guidance document with the Board of Counseling.

Telepsychology Guidance Document

The Committee discussed the draft Telepsychology Guidance Document. Before the next meeting, staff and the Committee will make edits to the draft document and sending their revised version to Dr. Werth. The Committee's goal is to accept a draft version at the October Committee meeting to present at the following day's full Board meeting. .

NEW BUSINESS:

Authority to Issue Temporary License

The Committee discussed the topic of issuing Psychology Residents in Training a provisional license while they are under supervision. Before the next meeting, staff will research whether other states issue temporary and/or resident licenses and, if so, obtain information about benefits and drawbacks of doing so.

ADJOURNMENT: The meeting adjourned at 4:00 p.m.

_____ _____

James Werth, Ph.D., ABPP, Chair Date

_____ _____

Jaime Hoyle, J.D., Executive Director Date

Draft Guidance Document on Assessment Titles and Signatures _Draft_

Commonwealth of Virginia

Board of Psychology

Conducting client evaluations or assessments pertaining to diagnosis and psychosocial or mental health functioning is within the scope of practice of several licensed mental health professionals. Although some jurisdictions have attempted to define by regulation or statute what types of assessments may be done by what specific mental health professionals, Virginia has not taken that approach. In Virginia, each profession is regulated by its own regulatory body, and each takes its own approach to training and standards of practice.

Just as different healthcare specialists may rely on similar but not identical assessment procedures, different behavioral health professionals may approach assessment practice with both shared and distinctive skills and tools. Historically, protection of the public has relied upon each profession's Board oversight to hold its own members to a customary discipline-wide standard of practice, with the additional expectation that each practitioner limit his or her domain of practice to professional areas of personal competence.

In the case of shared or overlapping services across professional licenses, however, a further public safeguard includes having licensure boards encourage its licensees to represent themselves and their work unambiguously by clearly documenting their professional alliances and qualifying licensure title. This unambiguous representation of the professional's basis for assessment work involves careful attention to specific labeling and self-presentation in the following ways:

- Clear and Unambiguous **Work Product** Heading: Because labels given to assessment work products may confuse healthcare service recipients, headings placed on an assessment product or report should clearly communicate the examiner's licensed profession.
    - Avoid the use of labels that suggest an assessment might have been conducted by a professional with a different license than the one(s) the examiner holds.
    - Suggested Work Product headings are included in the Table below.

- Clear and Unambiguous **Examiner** Titles. The title in a signature block or other relevant self-designation on a document summarizing an assessment work product should clearly convey the examiner's professional identity and field(s) of licensure.
    - Titles such as "psychological examiner" or "clinical examiner" have the potential to confuse service recipients by failing to convey the examiner's license.
    - In contrast, such terms as "Clinical Psychologist" or "Licensed Clinical Psychologist," "School Psychologist" or "Licensed School Psychologist," and "Applied Psychologist" or "Licensed Applied Psychologist" point clearly to the licensee's legal title in Virginia and help service recipients identify the examiner's oversight Board.
    - Listing the Examiner's specific License number is optional.
    - Suggested Signature Titles are included in the Table below.

Virginia License	Suggested Report Heading	Suggested Signature Title
Clinical Psychologist School Psychologist Applied Psychologiss	"Psychological Assessment" "Psychological Evaluation" "Psychological Report" Note: Additional, more specific, terms may be added, depending on the focus of the report and the Psychologist's area(s) of further post-doctoral training and competence (e.g., Forensic, Geriatric, Medical, Neuropsychological, Pediatric).	"Clinical Psychologist" or "Licensed Clinical Psychologist" "School Psychologist" or "Licensed School Psychologist" "Applied Psychologist" or "Licensed Applied Psychologist" Note: Board Certification or other credentials may be added underneath the Psychologist's licensure category (e.g., "Board Certified in Neuropsychology") and associated initials may be added after the Psychologist's degree (e.g., John Smith, Ph.D., ABPP), especially if relevant given to the heading and focus of the document. However, terms such as "forensic psychologist," "neuropsychologist," and others hold no legal standing in Virginia. Therefore, reports still should carry the appropriate signature title listed above in order to indicate to the public the licensure category and state Board regulating this practice.

Clarify conflict with required labels: When a psychologist's employer, work setting, or legal work context requires a particular label be used for assessment reports and the required label conflicts with the above suggestions and therefore might introduce confusion about the professional identity of the examiner, the psychologist should clarify his or her professional identity to the client at the outset of the evaluation and make this explicit within the report and in the signature block (e.g., "Psychological Evaluation" by XXXXXXX, Clinical Psychologist [or Licensed Clinical Psychologist]).

In offering this collective guidance to its licensees, Virginia's Board of Psychology is adding no formal regulatory restrictions to the use of various professional terms, beyond the protected titles that already reside in the respective regulations. Rather, the Board of Psychology is recommending best practice guidelines for its regulated members to minimize public confusion and clearly communicate to clients which Board governs the practice of the licensed examiner. The Board of Psychology believes this guidance will best represent its members to the public and best direct service recipients to each examiner's specific standards of competence.

Virginia Board of Psychology

Guidance on Technology-Assisted Psychology and Technology-Assisted Supervision

The Board's Standards of Practice (18VAC125-20-150) begin with the following statement, which applies regardless of whether psychological services are being provided face-to-face, by technology, or another method: "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."

Telepsychology has become a burgeoning source of both professional assessment and intervention services. Telepsychology services have been implemented in a number of diverse settings to a broad range of patients, and may even be a preferred modality in some instances. Unfortunately with the advent of the digital age come risks to privacy and possible disruption to client / patient care with the reliance upon electronic technology.

The endorsement and publication of these guidelines are intended as aspirational in nature to provide guidance to those psychologists who provide telepsychological services. Additionally, not all domains and issues related to electronic transmission and telepsychology can be anticipated but hopefully the following guidelines will provide guidance to those dedicated to providing telepsychological services to patients / clients in the Commonwealth of Virginia. Nothing in these guidelines should prevent a psychologist Licensed in the Commonwealth of Virginia who is competent to serve in such a capacity from providing appropriate telepsychology services.

These guidelines pertain to formal professional exchanges between licensed psychologists and their clients/patients/supervisees. Psychologists who choose to use social media are faced with a variety of additional challenges. A separate guidance document will address these types of issues. Similarly, these guidelines do not discuss the use of online assessments and testing, for which there are different types of considerations related to psychometrics, administration and interpretation, examinee identity, and technical problems and the evaluation environment.

Commented [JW1]: This is form pages 3-4 of the Ohio Psych Assoc telepsych guidelines: http://c.ymcdn.com/sites/ohpsych.site-ym.com/resource/collection/AC67E033-F301-4661-8A8E-ECE4AFF1F040/OPA_Telepsychology_Guidelines_41710.pdf

For the purposes of this guidance document, we adopt the extensive definition of telepsychology (p. 792) developed by the American Psychological Association (APA)/ Association of State and Provincial Psychology Boards/ APA Insurance Trust and reported in their set of "Guidelines for the Practice of Telepsychology" (2013). We suggest all psychologists considering the use of telepsychology read and be familiar with this document as well as the "Practice Guidelines for Video-Based Online Mental Health Services" developed by the American Telemedicine Association (2009), in addition to the present Guidance Document.

> Telepsychology is defined, for the purpose of these guidelines, as the provision of psychological services using telecommunication technologies. Telecommunications is the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means (Committee on National Security Systems, 2010). Telecommunication technologies include but are not limited to telephone, mobile devices, interactive videoconferencing, e-mail, chat, text, and Internet (e.g., self-help websites, blogs, and social media). The information that is transmitted may be in writing or include images, sounds, or other data. These communications may be synchronous, with multiple parties communicating in real time (e.g., interactive videoconferencing, telephone), or asynchronous (e.g., e-mail, online bulletin boards, storing and forwarding of information). Technologies may augment traditional in-person services (e.g., psychoeducational materials posted online after an in-person therapy session) or be used as stand-alone services (e.g., therapy or leadership development provided over videoconferencing). Different technologies may be used in various combinations and for different purposes during the provision of telepsychology services. For example, videoconferencing and telephone may also be utilized for direct service, while e-mail and text are used for nondirect services (e.g., scheduling). Regardless of the purpose, psychologists strive to be aware of the potential benefits and limitations in their choices of technologies for particular clients [or patients] in particular situations.

(1) All provision of therapeutic, assessment or supervisory services is expected to be in real time, or synchronous.

(2) In order to practice telepsychology in the Commonwealth of Virginia one must hold a current, valid license issued by the Virginia Board of Psychology or shall be a supervisee of a licensee.

(3) License holders understand that this guidance document does not provide licensees with authority to practice telepsychology in service to clients/patients/supervisees domiciled in any jurisdiction other than Virginia, 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) Psychologists should make every effort to verify the client's/patient's/supervisee's geographic location at the start of each session. If the client/ patient/ supervisee is located outside of Virginia and any other jurisdictions where the psychologist holds a license, the psychologist should contact the psychology licensing board in that jurisdiction to determine whether practice would be permitted or reschedule the appointment to a time when the client/ patient/supervisee is located in Virginia or another jurisdiction where the psychologist holds a current license.

(5) Psychologists who are licensed in Virginia but are not in Virginia at the time they want to provide telepsychology services to a patient/client/supervisee in Virginia should check with the jurisdiction where they are located to determine whether practice would be permitted.

(6) License holders practicing telepsychology shall comply with all of the regulations in 18 VAC 125-20-10 et seq., including the Standards of Practice specified in 18VAC125-20-150, and with requirements incurred in state and federal statutes relevant to the practice of clinical, school, or applied psychology.

(7) License holders should 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, and should limit their practice to those areas of competence. License holders should establish and maintain competence in the appropriate use of the information technologies utilized in the practice of telepsychology.

(8) License holders recognize that telepsychology is not appropriate for all psychological problems and clients/ patients /supervisees, 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 clinical, school, or applied 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/ patient/supervisee and ensures that the client's/ patient's/supervisee's welfare is paramount.

(9) Psychologists who provide telepsychology services make reasonable efforts to protect and maintain the confidentiality of the data and information relating to their clients/patients and inform them of the potentially increased risks of loss of confidentiality inherent in the use of the telecommunication technologies, if any.

(10) License holders practicing telepsychology should:

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

(i) The chronological and developmental age of the client/ patient, and the presence of any physical or mental conditions that may affect the utility of telepsychology. Psychologists shall comply with Section 508 of the Rehabilitation Act, 29 U.S.C 794(d), to make technology available to a client/patient with disabilities.

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

Commented [JW2]: Because of this, I think we do not need to repeat all the specifics in the Standards; however, several other documents do include something specific about protecting confidentiality so I added an item on confidentiality below, based on the APA's guidelines.

Commented [JW3]: The Ohio Psych Assoc developed a document listing areas of competence for telepsych: http://c.ymcdn.com/sites/ohpsych.site-ym.com/resource/collection/AC67E033-F301-4661-8A8E-ECE4AFF1F040/Areas-of-Competence-for-Psychologists-in-Telepsychology.pdf

Commented [JW4]: This is from the APA guidelines.

(iiI) Whether the client/ patient/supervisee 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 (10)(a)(i) and (10)(a)(ii) and (10)(a)(iii) is inconsistent with the delivery of telepsychology services, whether related to clinical or technological issues.

(c) Consider the potential impact of multicultural issues when delivering telepsychological services to diverse clients/patients.

(d) Upon initial and subsequent contacts with the client/ patient/ supervisee, make reasonable efforts to verify the identity of the client/ patient/supervisee;

(e) Obtain alternative means of contacting the client/ patient/supervisee;

(f) Provide to the client/ patient/supervisee alternative means of contacting the licensee;

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

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

(i) Discuss privacy in both the psychologist's room and the client/patient/supervisee's room and how to handle the possible presence of other people in or near the room where the participant is located.

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

(i) The limitations of using distance technology in the provision of clinical, school, or applied psychological services / supervision;

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

Commented [JW5]: The Ohio Psych Assoc developed a model informed consent document: http://c.ymcdn.com/sites/ohpsych.site-ym.com/resource/collection/AC67E033-F301-4661-8A8E-ECE4AFF1F040/Telepsychology%20Informed%20Consent%20Form.pdf

(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/ patient and the licensee;

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

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

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

(12) Discuss payment considerations with clients/patients to minimize the potential for misunderstandings regarding insurance coverage and reimbursement.

(13) Documentation should clearly indicate when serves are provided through telepsychology and appropriate billing codes should be used.

(14) 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/ patient welfare in accord with reasonable professional judgment.

FROM JD:
I have witnessed, through case reviews, a great deal of email correspondence between psychologists and their clients, raising questions about how well client identities are being protected (with regard to their participation in treatment).

Of course, this opens up a whole new line of concern with regard to guidance from the Board, and it is curious to me that other Boards and organizations seem not to have directly addressed this aspect of technological communications. It seems there should be a clause in our guidance document suggesting that psychologists carefully consider problems with the lack of security within email and phone text communications for PHI in electronic correspondence and either avoid altogether or at least keep these means of communication with patients succinct in length and minimal in number.

Here's an early effort at drafting something in this area:

"Psychologists should be cognizant of particular risks for disclosure of confidential patient personal health information (PHI) through electronic (i.e., phone text and email) communications between mental health professionals and their patients. Although these communication methods share with telephone communications some significant security problems, electronic communications (i.e., phone text and email correspondence) carry particular risk as they can leave a written record of detailed information that is more easily retrieved, printed, and shared with others by any person who has or gains access to either computer device used in these two-way communications. Psychologists are advised to avoid using these tools for communicating any information that discloses a patient's personal health information or treatment details. Even for routine patient scheduling arrangements, patients should be warned of associated security hazards in the use of these tools, and psychologists should keep exchanges devoid of PHI, succinct in their length, and minimal in their frequency or number."

OHIO

4732-17-01 General rules of professional conduct pursuant to section 4732.17 of the Revised Code.
(B) Negligence:
(7) Maintenance and retention of records.
(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.

(C) Welfare of the client:
(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.

OREGON

858-010-0060 Psychological Records
(1) Maintenance and retention of records. The psychologist or psychologist associate rendering professional services to an individual client or services billed to a third party payer, shall maintain professional records for a client for a minimum of seven years from the date of last service. The records shall include:

(a) The name of the client and other identifying information;
(b) The presenting problem(s) or purpose or diagnosis;
(c) The fee arrangement;
(d) The date and substance of each billed or service-count contact or service;
(e) Any test results or other evaluative results obtained and any basic test data from which they were derived;
(f) Notation and results of formal consults with other providers;
(g) A copy of all test or other evaluative reports prepared as part of the professional relationship;
(h) Any releases executed by the client;
(i) Any signed informed consents.

(2) Disposition in case of death or incapacity of the licensee. Psychologists and psychologist associates shall make necessary arrangements for maintenance of and access to client records to ensure confidentiality in case of death or incapacity of the licensee.

(3) Oregon licensees shall name a qualified person to intercede for client welfare and to make necessary referrals, when appropriate, and shall keep the Board notified of the name of the qualified person. The Board shall not release the name of the qualified person except in the case of the death or incapacity of the licensee or if the licensee is inactive or has resigned and the former client is unable to locate the licensee.

Saskatchewan

14.4 Contingency planning

A member must make plans in advance so that confidentiality of records and data is protected in the event of the member's death, incapacity, or withdrawal from the position or practice.

14.5 Transfer on retirement

Before resigning or withdrawing from the practice of psychology, a member must ensure that:

(a) each client record for which they have primary responsibility is transferred to another member whose identity is made known to the client, the institution or the project under whose auspices the psychological services were provided, as appropriate; or

(b) each client for whom they have primary responsibility is notified that the member intends to resign and that the client can obtain copies of the client's record. This requirement refers only to those clients who are active at the time of withdrawal and former clients whose records are being maintained according to the requirements of guidelines under section 13 of this guidelines document.

APA Ethics code

3.12 Interruption of Psychological Services

Unless otherwise covered by contract, psychologists make reasonable efforts to plan for facilitating services in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, relocation, or retirement or by the client's/patient's relocation or financial limitations. (See also Standard 6.02c, Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work.)

6.02 Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work

(c) Psychologists make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of psychologists' withdrawal from positions or practice. (See also Standards 3.12, Interruption of Psychological Services, and 10.09, Interruption of Therapy.)

10.09 Interruption of Therapy

When entering into employment or contractual relationships, psychologists make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client/patient care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client/patient. (See also Standard 3.12, Interruption of Psychological Services.)