

AGENDA
BOARD OF PSYCHOLOGY
Regulatory Committee Meeting
January 24, 2017 – Board Room 1

1:00 p.m.

Call to Order—James Werth, Jr., Ph.D., Chair

- Welcome and Introductions
- Emergency Evacuation Instructions
- Adoption of Agenda

Public Comment

Approval of Minutes

Review of Regulations Governing the Practice of Psychology

- Title 18 VAC125-20-150

Adjourn

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 1

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.

**THE VIRGINIA BOARD OF PSYCHOLOGY
REGULATORY COMMITTEE MINUTES
May 16, 2016**

The Virginia Board of Psychology ("Board") Regulatory Committee meeting convened at 10:15 a.m. on May 16, 2016 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Herbert Stewart, Ph.D., Board Chair, called the meeting to order, in the absence of William Hathaway, Ph.D., Committee Chair.

BOARD MEMBERS PRESENT: William Hathaway, Ph.D., Chair
Giordana Altin de Popiolek, Psy.D
Barbara Peery, Ph.D.
Thomas Ryan, Ph.D.
Herbert Stewart, Ph.D.
Susan Wallace, Ph.D.
James Werth, Jr., Ph.D.

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

ESTABLISHMENT OF A QUORUM:

With six members of the Committee present, a quorum was established. At 10:32am Dr. Hathaway arrived making seven members of the Committee present. Dr. Hathaway thanked Dr. Stewart for conducting the meeting in his absence.

EMERGENCY EGRESS:

Dr. Stewart announced the Emergency Egress Procedures.

ADOPTION OF AGENDA:

The agenda was accepted as written.

PUBLIC COMMENT:

There was no public comment.

APPROVAL OF MINUTES:

Upon a motion by Dr. Werth, the meeting minutes from June 16, 2015 were approved as written. The motion was seconded and carried.

UNFINISHED BUSINESS:

Psychological Assessments

The Board discussed the possibility of creating an inter-disciplinary committee that would include each Board of the Behavioral Sciences Unit in order to develop a guidance documentation regarding the use of the term “psychological assessment.” Ms. Hoyle agreed to work with each of the Behavioral Sciences Boards on the creation of the inter-disciplinary committee.

Dr. Hathaway agreed to represent the Board of Psychology and begin the process by completing a preliminary draft of a guidance document on psychological assessments to be reviewed by the Board and the proposed inter-disciplinary committee.

Telehealth Therapy

Dr. Stewart made a motion, which was properly seconded, to create a subcommittee consisting of Dr. Stewart, Dr. Wallace and Dr. Werth to review and make recommendations related to language regarding telehealth therapy to be included in the Regulations and develop a Guidance Document.

BREAK:

The Committee broke for lunch at 11:45am and reconvened at 12:08 p.m.

NEW BUSINESS:

Standards of Practice Review

Following discussion of the Standards of Practice of the Regulations Governing the Practice of Psychology and the Regulations Governing the Certification of Sex Offender Treatment Providers, the Committee agreed to review and make recommendations to Ms. Hoyle to be discussed at the next meeting. Ms. Hoyle will collect the comments from each member and provide the recommendations in a form of the draft document.

Upon a motion by Dr. Wallace, which was seconded and carried, the Committee voted to issue a Notice of Periodic Review.

Applied Psychology Review

The Committee reviewed the letter received by the Association of State and Provincial Psychology Boards (“ASPPB”) regarding their examination program. After discussion by the Committee, it was decided that the Board would look to professional applied psychology organizations and to Licensed Applied Psychologists for input and guidance regarding the requirements and standards of practice for Applied Psychologists.

Exemptions to Licensure

Ms. Yeatts recommended that the Committee seek legal guidance from the Attorney General's office on the interpretation of exceptions from licensure specifically regarding out-of-state providers testifying as expert witnesses in Virginia.

ASPPB Report

Dr. Werth and Dr. Stewart attended the ASPPB Midyear Meeting from May 4 -7, 2016 in Anchorage, Alaska. Dr. Werth provided a written summary of his view of the major points of discussion from the meeting.

Dr. Stewart made a motion to refer to the Virginia Academy of Clinical Psychologists ("VACP") their preliminary opposition or agreement to the Psychology Inter-jurisdictional Compact ("PSYPACT"). After discussion, Dr. Stewart withdrew his motion. Instead the Board decided to discuss the issues at a subsequent Board meeting.

NEXT BOARD MEETING:

The Regulatory Board Committee decided to meet again in July or August 2016 with the day to be determined based on availability.

ADJOURNMENT

The Board meeting was adjourned at 1:57 p.m.

Jaime Hoyle, Executive Director

William Hathaway, Ph.D., Chair

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.

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

18VAC115-20-130. 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. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;
2. Practice only within the boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education training and experience accurately to clients;
3. Stay abreast of new counseling information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;
4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;
5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;
6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;

7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;

8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;

9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;

10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and

13. Advertise professional services fairly and accurately in a manner which is not false, misleading or deceptive.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

2. Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destruction of records which are no longer useful in a manner that ensures client confidentiality;

3. Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia;

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping,

(ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations; and

5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or ten years following termination, whichever ever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have transferred to another mental health service provider or given to the client or his legally authorized representative.

D. In regard to dual relationships, persons licensed by the board shall:

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients.) Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a sexual relationship. Counselors shall not engage in sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Counselors who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a counselor does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Counselors shall avoid any non-sexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

E. Persons licensed by the board shall advise their clients of their right to report to the Department of Health Professions any information of which the licensee may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

18VAC115-20-140. Grounds for revocation, suspension, probation, reprimand, censure, or denial of license.

A. Action by the board to revoke, suspend, deny issuance or renewal of a license, or take disciplinary action may be taken in accordance with the following:

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of this chapter;

2. Procurement of a license by fraud or misrepresentation;

3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;

4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;

5. Performance of functions outside the demonstrable areas of competency;

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

7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of counseling, or any part or portion of this chapter.

B. Following the revocation or suspension of a license, the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

Part V. Standards of Practice.

18VAC140-20-150. Professional conduct.

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. Regardless of the delivery method, whether in person, by telephone or electronically, these standards shall apply to the practice of social work.

B. Persons licensed as social workers and clinical social workers shall:

1. Be able to justify all services rendered to or on behalf of clients as necessary for diagnostic or therapeutic purposes.
2. Provide for continuation of care when services must be interrupted or terminated.
3. Practice only within the competency areas for which they are qualified by education and experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Ensure that clients are aware of fees and billing arrangements before rendering services.
7. Inform clients of potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment.
8. Keep confidential their therapeutic relationships with clients and disclose client records to others only with written consent of the client, with the following exceptions: (i) when the client is a danger to self or others; or (ii) as required by law.
9. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.
10. As treatment requires and with the written consent of the client, collaborate with other health or mental health providers concurrently providing services to the client.
11. Refrain from undertaking any activity in which one's personal problems are likely to lead to inadequate or harmful services.

12. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

C. In regard to client records, persons licensed by the board shall comply with provisions of § 32.1-127.1:03 of the Code of Virginia on health records privacy and shall:

1. Maintain written or electronic clinical records for each client to include identifying information and assessment that substantiates diagnosis and treatment plans. Each record shall include a diagnosis and treatment plan, progress notes for each case activity, information received from all collaborative contacts and the treatment implications of that information, and the termination process and summary.

2. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality.

3. Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative or as mandated by law.

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third-party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations.

5. Maintain client records for a minimum of six years or as otherwise required by law from the date of termination of the therapeutic relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for six years after attaining the age of majority or 10 years following termination, whichever comes later.

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

c. Records that have been transferred to another mental health professional or have been given to the client or his legally authorized representative.

D. In regard to dual relationships, persons licensed by the board shall:

1. Not engage in a dual relationship with a client or a supervisee that could impair professional judgment or increase the risk of exploitation or harm to the client or supervisee. (Examples of such a relationship include, but are not limited to, familial, social, financial, business, bartering, or a close personal relationship with a client or supervisee.) Social workers shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

2. Not have any type of romantic relationship or sexual intimacies with a client or those included in collateral therapeutic services, and not provide services to those persons with whom they have had a romantic or sexual relationship. Social workers shall not engage in romantic relationship or sexual intimacies with a former client within a minimum of five years after terminating the professional relationship. Social workers who engage in such a relationship after five years following termination shall have the responsibility to examine and document thoroughly that such a relationship did not have an exploitive nature, based on factors such as duration of therapy, amount of time since therapy, termination circumstances, client's personal history and mental status, adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a social worker does not change the nature of the conduct nor lift the regulatory prohibition.

3. Not engage in any romantic or sexual relationship or establish a therapeutic relationship with a current supervisee or student. Social workers shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student, or the potential for interference with the supervisor's professional judgment.

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

5. Not engage in a personal relationship with a former client in which there is a risk of exploitation or potential harm or if the former client continues to relate to the social worker in his professional capacity.

E. Upon learning of evidence that indicates a reasonable probability that another mental health provider is or may be guilty of a violation of standards of conduct as defined in statute or regulation, persons licensed by the board shall advise their clients of their right to report such misconduct to the Department of Health Professions in accordance with § 54.1-2400.4 of the Code of Virginia.

18VAC140-20-160. Grounds for disciplinary action or denial of issuance of a license or registration.

The board may refuse to admit an applicant to an examination; refuse to issue a license or registration to an applicant; or reprimand, impose a monetary penalty, place on probation, impose such terms as it may designate, suspend for a stated period of time or indefinitely, or revoke a license or registration for one or more of the following grounds:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;
2. Procurement of license by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of continuing education.

4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;
5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of 18VAC140-20-150, standards of practice;
6. Performing functions outside the board-licensed area of competency;
7. Failure to comply with the continued competency requirements set forth in 18VAC140-20-105; and
8. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of this chapter; and
9. Failure to provide supervision in accordance with the provisions of 18VAC140-20-50 or 18VAC140-20-60.