



TELEPSYCHOLOGY IN NORTH CAROLINA

a message from the chair

Kristine M. Herfkens, Ph.D., ABPP

Telepsychology, which continues to be a hot topic nationally, has raised vexing questions for regulatory boards for some time as technology has outpaced the ability of regulatory boards to make adjustments in each board's capacity to manage and define the parameters for this area of service. Advances in technology provide the opportunity for innovative ways of rendering psychological services to an expanding and frequently underserved client population. Although it has the potential for being a useful tool for those who practice psychology, most psychologists have been trained solely in the provision of traditional face-to-face services. Telehealth, in all of its variants, calls for an understanding of the differences in service provision, additional areas of necessary competency, awareness of legal and ethical issues, jurisdictional and interjurisdictional policies, and data management, among the various necessary skills to maintain in order to engage in such practice. The purpose of this article is to summarize the issues around the provision of telepsychology services and to provide an overview of the current regulatory environment.

"Telepsychology" is defined as the provision of psychological services using telecommunication technologies. (APA Guidelines for the Practice of Telepsychology, 7/27/2012). The telecommunication technologies used may be broad in array, including email, videoconferencing, telephone, and internet chat. The Department of Defense (DoD) and the Department of Veterans Affairs (VA) are the two largest providers of telepsychology services, primarily by using videoconferencing to deliver services to active duty military and those in need of services following active service. For active duty military, services are delivered in farflung locales to those who might otherwise go unserved in remote areas. Additionally, many third party payers around the country are now willing to reimburse for telepsychology services to clients by psychologists following specific guidelines.

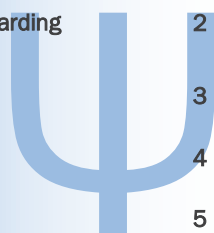
There are numerous issues for psychologists to consider before engaging in telepsychology. Competence is first and foremost. Providing telepsychology services may require skills not previously available in the arsenal of traditionally trained psychologists. There are a growing number of opportunities for telepsychology continuing education of which any psychologist might avail him/herself. In addition, the American Psychological Association has made a commitment to provide telepsychology training at its annual conference.

For the psychologist prepared to deliver telepsychology services, there are both practical and clinical considerations. Competence issues about which any psychologist must be aware in providing telepsychology services include not only psychologist-specific tools, but also identifying the suitability, or lack thereof, for particular patients/clients wanting to utilize telepsychology services. For example, it is necessary to have secure electronic communications. What does informed consent look like with the potential for breaches to email, chat, and video communications? How do we define the limits to confidentiality with electronic communications? All psychologists are trained to handle clinical emergencies, but what do we do with and for the suicidal or homicidal client who now contacts you while in a different state, or even another country? (It is essential to observe at this point that there are important interjurisdictional [state to state, country to country] issues to consider in serving any client who has moved to another state or country if you wish to continuing providing services to that individual.) Should we have a network of resources wherever our clients are, and how do we go about developing such a network if, for example, our clients are residing in a remote part of another state, another country, including a third world country? APA has established aspirational guidelines for the delivery of telepsychology services, but the methods and mechanisms of service delivery currently are far from certain.

The North Carolina Psychology Board has not yet officially addressed, either in statute or rule, the regulatory issues associated with telepsychology, but in March 2005, it issued an advisory statement which remains current on the

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TELEPSYCHOLOGY IN NC

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Board's website at (www.ncpsychologyboard.org/office/ElectronicServices.htm) and is also included in this newsletter. Telepsychology has been here for sometime, and we must work diligently to establish laws and/or rules to protect the public in the provision of these services. The Association of State and Provincial Psychology Boards (ASPPB) of which this board is a member, established a Telepsychology Task Force which has published a draft proposal regarding options for interjurisdictional telepsychology practice. ASPPB has proposed a credential to be titled "E.Passport," which would allow holders of this credential from participating jurisdictions to provide telepsychology services across those jurisdictions as long as there is an interjurisdictional agreement to do so. The requirements to hold this credential, described in ASPPB's E.Passport Draft Proposal, would require the licensee to have an absence of disciplinary actions and pending complaints, specific degree and training requirements that, in some cases, may exceed the jurisdiction's licensure requirements, and telepsychology-specific continuing education. The E.Passport does not allow for physical or in-person practice in other jurisdictions, which ASPPB has provided the mechanism for with its Interjurisdictional Practice Certificate (IPC).

In short, the landscape has been changing with regard to the provision of psychological services, and we will be addressing specific telepsychology issues further in the near future. Fortunately, we have ASPPB, DoD, and VA to provide guidance and experience in this area, in addition to other resources and other professional disciplines which have developed guidelines for this area of practice. It is important for all of us also to recognize that using telecommunication to provide psychological services requires an acceptance of the dynamic nature of the tools available for this area of practice. Statutes and rules governing practice may be established over time, but practitioners must remain vigilant in focusing on what it means to provide ethical and competent practice in these changing times.

Provision of Services Via Electronic Means North Carolina Psychology Board Advisory Statement

In response to inquiries from licensees and other interested parties, the Board has confirmed that it has no separate view *per se* with regard to provision of services via electronic means. As long as a licensee is practicing in a manner consistent with his/her training and experience, and is receiving supervision as is appropriate, the medium for doing so is not at issue. However, it is incumbent upon any psychologist to recognize that as he or she moves away from direct contact with clientele, the psychologist incrementally loses much of the richness of interaction which, as any psychologist knows, comes with traditional face-to-face contact in an individual session with a client.



Delivery of clinical services by technology-assisted media such as telephone, use of video, and the internet obligate the psychologist to carefully consider and address a myriad of issues in the areas of structuring the relationship, informed consent, confidentiality, determining the basis for professional judgments, boundaries of competence, computer security, avoiding harm, dealing with fees and financial arrangements, and advertising. Specific challenges include, but are not limited to, verifying the identity of the client, determining if a client is a minor, explaining to clients the procedure for contacting the psychologist when he or she is off-line, discussing the possibility of technology failure and alternative modes of communication if that failure occurs, exploring how to cope with potential misunderstandings when visual cues do not exist, identifying an appropriately trained professional who can provide local assistance (including crisis intervention) if needed, informing internet clients of encryption methods used to help ensure the security of communications, informing clients of the potential hazards of unsecured communication on the internet, telling internet clients whether session data are being preserved (and if so, in what manner and for how long), and determining and communicating procedures regarding the release of client information received through the internet with other electronic sources.

The Board considers that the practice of psychology occurs both where the psychologist who is providing therapeutic services is located and where the individual (patient/client) who is receiving the service is located. In order for an individual to provide psychological services in North Carolina, that individual must be licensed by the Psychology Board or be exempt under the Psychology Practice Act. On this basis, if a North Carolina licensee renders psychological services electronically to an out-of-state client, it is recommended that the licensee contact the psychology licensing board in the state in which the patient/client resides to determine whether or not such practice is permitted in that jurisdiction. Licensees are advised to review the North Carolina Psychology Practice Act, specifically the Code of Conduct, and the *APA Ethical Principles of Psychologists and Code of Conduct* (Standards 3.10(a), 4.02(c), 5.01(a), and 5.04 specifically address electronic transmissions).

The Release of the DSM-5

Jeffrey Lorence, M.A.

There are many changes happening for psychologists in North Carolina. As reported in the last newsletter, the Board recently employed a new Executive Director, Daniel Collins, who joined us with a wealth of important knowledge and experience, following Martha Storie's retirement after many years of tremendous service to the Board, its staff, and the psychologists in our state. Additionally, we are seeing changes in the advances of psychology and technology as more psychologists begin to practice in the area of telepsychology. Changes to the health-care system, the roles of psychologists in healthcare settings, and records management are also at the forefront of practice in the state.

An important change around the country is the release of DSM-5. We have anxiously been waiting its release, and now that it has arrived some practitioners no doubt have already begun to use it. As it represents the latest development in research and data in the application of diagnostic criteria, providing a classification system relied on by private insurers, agencies of various types, and those involved in the provision of healthcare, particularly in the practice of psychology among the various human service related disciplines. Although there is significant controversy about this most recent attempt by the American Psychiatric Association's taskforce to provide mental health practitioners with an up-to-date classification system, it is likely to be widely utilized in many settings that provide for the diagnosis and treatment of consumers of mental health, substance abuse, and developmental disabilities and related services.

There have been many opinions offered about and criticisms directed toward DSM-5 that will no doubt influence, or, at the very least inform, our own judgments as we begin to utilize this most up-to-date classification system. However, as with any system of classification, caution is necessary in applying diagnoses that can have a profound impact on consumers of mental health services. It is critical to keep abreast of new findings, data, and research to support the various diagnostic classifications, particularly those that are new to DSM-5, and to obtain appropriate continuing or other forms of education in order to be properly trained in its use and application. The American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct* (2010) is unambiguous and concise in requiring the following :

- 2.01 (c) "Psychologists planning to provide services, teach, or conduct research involving populations, areas, techniques, or technologies (*in this case, DSM-5*) new to them undertake relevant education, training, supervised experience, consultation, or study."
- 2.03 "Psychologists undertake ongoing efforts to develop and maintain their professional competence."
- 2.04 "Psychologists' work is based upon established scientific and professional knowledge of the discipline."

There are additional standards in the Code of Conduct under General Standard 9, Assessment, that require that psychologists not use obsolete tests, results, or data obtained that may be outdated for the current purpose, a cautionary note for anyone considering continuing use of DSM-4 (TR). Although the DSM-5 is not a test, psychologists will utilize it for the purpose of rendering diagnoses, treatment, and service planning, thereby requiring understanding and acquisition of knowledge of the most current classification system.

Therefore, as we continue to see changes in various aspects of the practice of psychology across our state and elsewhere, the newest version of the DSM has the potential to leave many practitioners perplexed, distressed, and even disgruntled about what has been newly included or left in (or left out) when it is finally unveiled in August. However, we must maintain our knowledge base and competence in understanding diagnostic classification in a continuing effort to do no harm and to maintain professional integrity in the ethical practice of psychology.

To that end, a growing number of training opportunities will be available to learn about the DSM-5 and the changes anticipated in this most recent version. Although there may be a significant amount of information floating around regarding the changes proposed for the DSM-5, all psychologists have a responsibility to learn about the changes as they pertain to each individual's practice.

North Carolina Psychology Board Advisory Statement On The Use Of The DSM-5

Psychologists who use the DSM are advised that they must begin to use the DSM-5 by June 1, 2014. This provides psychologists one year from the date of publication to learn and begin to utilize this updated manual for purposes of diagnosis, treatment planning and professional documentation consistent with the Ethical Principles of Psychologists and Code of Conduct, and the North Carolina Psychology Practice Act.

Medication Recommendations

North Carolina Psychology Board Advisory Statement

The North Carolina Psychology Board has received numerous inquiries about whether a psychologist has a firm legal/ethical ground on which to stand when making medication recommendations either to a provider about his/her patients or directly to the patient himself/herself.

The Board's consideration of this issue was limited to whether this practice could potentially violate the N.C. Psychology Practice Act or the Ethical Principles of Psychologists and Code of Conduct (APA 2002), which is the only authority the Board has with regard to any issues with which it is presented. Any other potential issues that may arise about this practice are outside of the Board's jurisdiction and were not considered.



The Board recognizes that there is not a simple answer to this inquiry, but rather that it depends upon the specific facts and circumstances with which the psychologist is confronted. However, the Board raises the potential problems that may arise as a result of this practice under the N.C. Psychology Practice Act and the Ethical Principles of Psychologist and Code of Conduct.

Before making a medication recommendation to a provider, a psychologist must consider whether he/she is competent to do so. The issue of competence is set forth in N.C. Gen. Stat. § 90-270.15(a)(13), which states that it is a violation of the N.C. Psychology Practice Act if a licensee, "Has practiced psychology or conducted research outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience." Competence is also addressed in N.C. Gen. Stat. § 90-270.15(a)(14), which states that it is a violation of the N.C. Psychology Practice Act if a licensee, "Has failed to use, administer, score, or interpret psychological assessment techniques, including interviewing and observation, in a competent manner, or has provided findings or recommendations which do not accurately reflect the assessment data, or exceed what can reasonably be inferred, predicted, or determined from test, interview, or observational data."

Whether a psychologist is competent to engage in a certain activity is also addressed in the Ethical Principles of Psychologists and Code of Conduct, Standard 2.01 (a), which states, "Psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience."

It is the Board's position that a psychologist: 1) should not make a specific medication recommendation to a patient, but rather may consider suggesting a general classification of medications for which a patient may wish to seek consultation with a physician; and 2) should consider his/her own competence when deciding whether to make recommendations regarding medication to providers, or whether to make suggestions to a patient to see a physician about a general classifications of medications, otherwise the psychologist may be in violation of the N.C. Psychology Practice Act and/or the Ethical Principles of Psychologists and Code of Conduct.

Furthermore, this practice may potentially constitute the practice of medicine, which the N.C. Psychology Practice Act specifically prohibits in N.C. Gen. Stat. § 90-270.3. In addition, N.C. Gen. Stat. § 90-18(b), which defines the practice of medicine, states, "Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person." Even though there is overlap in the definition of the practice of psychology and the definition of the practice of medicine, psychologists must practice within the scope of the Psychology Practice Act. The N.C. Psychology Board does not have authority over the practice of medicine and the N.C. Medical Board could potentially construe such conduct to constitute the practice of medicine.

There may be other issues that are not within the Board's jurisdiction that a psychologist should consider in making a decision about engaging in this type of conduct. However, the Board's position on this matter is limited, as described in this article.

Special Thanks



The Board would like to extend a special thank you to former Public Member Maria Velazquez-Constas, M.Ed who served on the Board from 1998-2007 and again from 2010-2013. She was a dedicated Board Member who is highly respected by Board Members and Staff for her commitment and service to the NC Psychology Board. She will be greatly missed and the Board is very grateful to Ms. Velazquez-Constas for all of her many years of service to the Board.

- November 13-15, 2013
- January 15-17, 2014
- April 30-May 2, 2014
- August 6-8, 2014
- November 5-7, 2014

UPCOMING

During the period of time from April 1, 2013, through August 1, 2013, the Board reviewed and closed 10 investigative cases involving psychologists in which it found either no evidence of probable cause of a violation or insufficient evidence to issue a statement of charges, and reviewed and closed 3 cases involving non-psychologists. Further, it issued remedial action in 1 case and took the following action:

John Cassidy, Ph.D. – CONSENT ORDER was approved on April 18, 2013. Board accepted and signed Consent Order; Respondent admits that the conduct described in constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(6), (a)(10), (a)(11), (a)(20) and (a)(21) of the North Carolina Psychology Practice Act, and Standards 3.04, 3.05(a), 3.08 and 10.05 of the *Ethical Principles of Psychologist and Code of Conduct* (American Psychological Association 2002). Respondent’s license is immediately REVOKED. He shall not apply for re-licensure in NC and must remit \$300.00 in costs.

Mawiyah Kambon, Ph.D. – CONSENT ORDER was approved and signed in April 18, 2013. Dr. Kambon admits that the conduct described constitutes violations of N.C. Gen. Stat. § 90-270.15(a)(7) of the North Carolina Psychology Practice Act, and 21 N.C.A.C. 54 .2104 (f) and (i). Dr. Kambon’s license is REPRIMANDED and she is ordered to successfully complete tutorials; submit proper documentation establishing that she has completed all of the required continuing education hours with her application for the 2014-2016 and the 2016-2018 biennial licensure renewal periods; and is assessed \$300.00 in costs.

Harry Piersma, Ph.D. – CONSENT ORDER was approved and signed on July 31, 2013. On April 24, 2013, the Board issued a letter alleging that Respondent’s conduct in August 2012, violated N.C. Gen. Stat. §§ 90-270.15(a)(10) & (a)(12) of the North Carolina Psychology Practice Act. Respondent does not admit to these violations. Respondent agreed to voluntarily relinquish his license with the consent of the Board pursuant to N.C. Gen. Stat. § 90-270.15(h), and Respondent further agreed that he shall refrain from reapplying at any time for licensure to practice psychology in North Carolina. Respondent’s license is voluntarily RELINQUISHED. Respondent also shall refrain from reapplying at any time for licensure in North Carolina and must remit \$300 in costs.

Hillary Siedler, Ph.D. – CONSENT ORDER was approved and signed on July 31, 2013. Respondent acknowledges that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(10) & (a)(11) of the North Carolina Psychology Practice Act, and Standards 3.05(a) & (b) & 10.08(a) of the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association 2002). Respondent’s license is SUSPENDED until April 1, 2014, provided the Board approves her release from suspension. She is ordered to receive therapy on a weekly basis; successfully complete a fitness to practice evaluation; remit \$300 in costs by August 15, 2013. If Board determines Respondent is fit to practice, she may resume practice under PROBATION for a period of two years or 3,000 hours, whichever takes longer.

JoAnne Woodard, Ph.D. – CONSENT ORDER was approved and signed in April 18, 2013. Dr. Woodard admits that the conduct described constitutes violations of N.C. Gen. Stat. § 90-270.15(a)(7) of the North Carolina Psychology Practice Act, and 21 N.C.A.C. 54 .2104 (f) and (i). Dr. Woodard’s license is REPRIMANDED and she is ordered to successfully complete tutorials; submit proper documentation establishing that she has completed all of the required continuing education hours with her application for the 2014-2016 and the 2016-2018 biennial licensure renewal periods; and is assessed \$300.00 in costs.

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