

GUIDELINES FOR PROVIDING INFORMED CONSENT

a message from the vice chair

Robert Hill, Ph.D., ABPP

Professional standards stipulate that psychologists provide informed consent as early as feasible in a professional relationship, whether the client is seeking therapy, assessment, or consultation services. The function of informed consent is basically to ensure the client has adequate information to make an informed decision to participate, and reflects a concern for the client's freedom of choice. Some have advised that ideally informed consent can begin a process of establishing a "collaborative relationship that is built on trust, openness and respect" (Barnett, 2007; Welfel, 2013). Attending thoughtfully to informed consent can lead to enhanced trust and respect between client and therapist. Some relevant ethical considerations regarding the process follow.

[APA Ethics Code Standard 3.10\(a\)](#) requires that informed consent for treatment be provided, and specifies that the language be "reasonably understandable." While Standard 3.10(d) stipulates that psychologists "appropriately document written or oral consent," the professional standard has developed to include a written informed consent document describing expectations regarding practice policies, and a number of specific issues mentioned below. Ethical concern for client comprehension has also led to the recommendation that a conversation around the content of informed consent be conducted by the psychologist to ensure that the client understands procedures, risks, policies, and expectations regarding confidentiality in the process of obtaining a signature (Barnett, 2007; Pope & Vasquez, 2011). One common problem with informed consent documents is that the reading level required is often at the college level, and many clients are not capable of adequate comprehension (Welfel, 2013).

For clients whose capacity to consent is limited (e.g., intellectual disability, or minor) Standard 3.10(b) requires that psychologists nonetheless (1) provide an "appropriate explanation," (2) seek assent, (3) consider "preferences and best interests," and (4) obtain permission "from a legally authorized person (as permitted)." If assessment or treatment is mandated, then informed consent includes that fact, along with specific expectations regarding confidentiality.

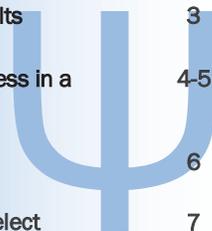
The [APA Ethics Code Standard 10.1](#) addresses informed consent for therapy more directly in part (a) and requires that psychologists provide information about "the nature and anticipated course of therapy, fees, involvement of third parties and limits of confidentiality and provide sufficient opportunity for the client/patient to ask questions and receive answers." Additionally, Standard 10.1 (b) requires that psychologists using any "treatment for which generally recognized techniques and procedures have not been established . . . inform their clients/patients of the developing nature of the treatment, the potential risks involved, alternative treatments that may be available and the voluntary nature of their participation." This requirement is one consistent with the professional community standard that psychologists employ techniques that are evidence based. Additionally, Standard 10.1(c) requires that, if a psychologist is being supervised, the client must be informed of this fact, and further that the client "is given the name of the supervisor." Informing the client of the supervisor's name both provides the client the opportunity to avoid a dual relationship (with the supervisor), and provides for the opportunity for a grievance by the client to be delivered to an appropriate party if needed.

For those providing treatment to couples or families, Standard 10.02 requires that the psychologist clarify "which of the individuals are clients/patients" and the "psychologist's role, and probable uses of services provided and information obtained." This includes a review of the limitations to confidentiality associated with serving multiple parties concurrently. This provision is further stipulated in Standard 10.3 regarding Group Therapy, requiring the psychologist to "describe at the outset the roles and responsibilities of all parties and the limits of confidentiality."

article continued on page 2

IN THIS ISSUE

Guidelines for Providing Informed Consent	1-2
Continuing Education Audit Results	3
The Complaint and Hearing Process in a Nutshell	4-5
Annual Report	6
Meet the New ASPPB President-elect	7



article continued from page 1

This emphasis on informing the client(s) of the limits of confidentiality is further described in Standard 4.02(a) where psychologists are asked to discuss “the relevant limits of confidentiality” and “the foreseeable uses of the information generated through their psychological activities.” Standard 4.02(b) requires that this information be provided at “the outset of the relationship and thereafter as new circumstances warrant.” This provision sets not only the expectation that informed consent is one of the first duties of a professional relationship, but that the process is revisited as needed. Thus, the process of informed consent does not end with the signature on the consent form, but instead is revisited during the course of the professional relationship as the content of the relationship and the needs of the client indicate (Barnett, 2007; Johnson-Greene, 2007; Welfel, 2013). For example, if a therapy client begins to disclose a heightened risk for suicide in session three, then a psychologist can restate the limitations around confidentiality expectations that may be pertinent to ensuring the safety of the client. Standard 4.02(b) also includes the exception: “unless it is not feasible or contraindicated.” Such a contraindication might occur, for example, when the patient is experiencing an acute suicidal crisis, where early in the initial contact the client understandably requires a focus on preventing self-harm and is not in a position to benefit from the typical content of an informed consent process.

One last provision of Standard 4.20 is (c) which states: “Psychologists who offer services, products, or information via electronic transmission inform clients/patients of the risks to privacy and limits of confidentiality.” This provision is particularly relevant to the use of email, text messages, cellular and portable phone use. This standard might be addressed in statements (written and/or oral) during the informed consent process that specifically address the potential to compromise confidentiality via electronic communication. For those who wish for a more developed discussion of a policy for the use of electronic media, including internet social media use (e.g., Facebook), you may find this web site resource helpful: [My Private Practice Social Media Policy: Information for Clients](#) by Keely Kolmes, Psy.D.

Specific to assessment practices, [APA Ethics Code Standard 9.03](#) describes requirements for informed consent that parallel those for treatment services, including “an explanation of the nature and purpose of the assessment, fees, involvement of third parties and limits of confidentiality and sufficient opportunity for the client/patient to ask questions and receive answers.” This standard also stipulates that consent may be adjusted in situations where assessment is mandated, or required for a work or educational setting, or where decisional capacity is questionable. In addition, part (c) addresses concerns specific to the use of an interpreter.

To summarize the various requirements for the content of informed consent, a psychologist should include the following information: the type of therapy, anticipated course, potential risks with treatment, alternatives to treatment, the right to refuse or withdraw from treatment, fees, supervisory relationship (including name of supervisor if any), the limits of confidentiality (which includes at least concern for harm to self or others, suspected child or elder abuse, and potential court involvement), third party reimbursement concerns (if relevant), including the provision of a diagnosis, potential access to records, limits to treatment duration, and related concerns for confidentiality. In addition scholars recommend addressing practice policies such as: procedures for making and rescheduling appointments, cancellation, contacting the therapist in an emergency, typical session duration, addressing grievances, types of records maintained, therapist credentials, any dispute or arbitration policy and affiliation with other practitioners (if any). A useful addition to the informed consent process is to obtain permission to contact one or two individuals in the event of an emergency (e.g., acute client suicidality). This much information can easily overwhelm a client. Thus the practice of providing the client with a copy of an informative document, and revisiting relevant content, such as the expected duration of therapy, anticipated risks, practice procedures, third party concerns, and the limits of confidentiality, as needed during the course of treatment is recommended (Barnett, 2007; Pope & Vasquez, 2011; Welfel, 2013). For a rich set of resources relevant to informed consent available online, including sample forms, relevant professional ethics code, and excerpts from relevant literature, you might visit the website of Ken Pope at: <http://ks pope.com/consent/index.php>.

References:

- American Psychological Association (APA; 2002,2010). Ethical principles of psychologists and code of conduct. Washington, D.C. Retrieved from <http://www.apa.org/ethics/code.html>.
- Barnett, J. E. (2007). Seeking an understanding of informed consent. *Professional Psychology Research and Practice*, 38, 179-186.
- Johnson-Greene, D. (2007). Evolving standards for informed consent: Is it time for an individualized and flexible approach? *Professional Psychology: Research and Practice*, 38, 179-186.
- Pope, K. S., & Vasquez, M. J. T. (2011). *Ethics in psychotherapy and counseling*. (4rd ed.). San Francisco: Jossey-Bass.
- Welfel, E. R. (2013). *Ethics in Counseling and Psychotherapy* (5th Ed.). Pacific Grove, CA: Brooks Cole.

CONTINUING EDUCATION AUDIT RESULTS



The Board recently completed its fifth random audit of licensees for continuing education documentation, and found that a significant drop occurred between the 2006-2008 biennium when only 81% percent of audited licensees supplied appropriate CE documentation, and the most recent 2010-2012 biennial renewal cycle when over 95% of audited licenses supplied CE documentation that was acceptable under Board rule. The Board extends a note of appreciation to all audited licensees who supplied documentation in a prompt manner in response to the notice of audit and is pleased with the significant increase in the number of individuals who were in compliance with the continuing education requirements for the most recent renewal period.

Those individuals who were audited and failed to meet the CE requirements received Board action. The most common issues with unacceptable documentation submitted during the most recent and past continuing education audits continue to include an insufficient number of total Category A hours and an insufficient number of Category A hours in ethical and legal issues within the professional practice of psychology, two issues that have been problematic every renewal cycle since CE became a requirement for renewal.

Many audited licensees seemed to be confused or were mistaken about the requirements for Category A CE. Many audited individuals often had an insufficient number of total Category A hours and did not meet the required nine hour minimum. In order to determine if an activity meets the requirements for Category A CE credit, licensees are advised to carefully review the checklist listed in the sidebar.

If you can check "yes" for each item on the list, this will help you to confirm if an activity meets the requirements for Category A CE credit. If even one of the five questions is answered in the negative, the activity does not meet the requirements to count for Category A hours.

It is important to note that the three hour ethical and legal requirement must be met through completion of Category A activities, not Category B.

If you have any questions about the continuing education requirements, please contact the Board office or click here to visit the "Continuing Education" section on the Board's website.

Continuing Education

Continuing Education

- ▶ Licenses must be renewed by October 1, 2014. In order to renew your license you must attest that you completed 18 hours of continuing education.
- ▶ If you were licensed to practice psychology in North Carolina *after* October 1, 2012 you *will NOT* have to obtain continuing education (CE) for the 2014 renewal cycle.
- ▶ If you were licensed to practice psychology in North Carolina *before* October 1, 2012 at any level including as a provisional psychologist you *must* obtain 18 hours of CE for the 2014 renewal cycle.

CE Requirements:

18 Hours Every Two Years

Category A

9 Hours Minimum Required

3 hours from Category A must cover ethical and legal issues within the professional practice of psychology.

If you can answer yes to all of the following questions, an activity is considered acceptable for Category A.

Is the program sponsored or co-sponsored by the Board, the APA, an APA-approved sponsor, or by NC AHEC?

Does the program specifically identify psychologists in the target audience?

Are contact hours specified by the sponsor?

Does the program cover ethical and legal issues within the professional practice of psychology or assist you in maintaining and upgrading skills and competencies within your scope of practice?

Does the program provide a certificate upon completion?

Category B

9 Hours Maximum Allowed

No Sponsorship Requirements for Category B

Category B activities must either cover ethical and legal issues within the professional practice of psychology or assist you in maintaining and upgrading skills and competencies within your scope of practice as a psychologist.

Only CE completed between October 1, 2012–September 30, 2014 will be accepted for the upcoming licensure renewal in 2014.

The Complaint and Hearing Process in a Nutshell

Sondra Panico

Assistant Attorney General and Counsel to the Board

This article is written to provide insight into the Board process when a complaint is filed against a licensee of the Board. Complaints filed with the Board are routinely assigned to the Board Staff Psychologist/Investigator for investigation. In most cases, the psychologist is sent a letter in which he/she is directed to respond to the allegations in the complaint. Through the Board's authority to investigate complaints, pursuant to N.C. Gen. Stat. § 90-270.9, the Board may order the psychologist's records of services to a patient/client, or other records deemed to be relevant in order to properly investigate the complaint. The Board investigator may also interview the complainant, the psychologist, or any other witnesses, as the investigator determines is necessary. Depending upon the nature of the complaint, the investigator may contact the psychologist to meet in person or may ask questions in a telephone interview or may determine that an interview is unnecessary.



Once the investigator completes the investigation, she typically writes a summary report for the Probable Cause Committee (PCC) of the Board to review to determine whether there is probable cause of a violation of the NC Psychology Practice Act or the APA's Ethical Principles of Psychologists and Code of Conduct sufficient to issue a Statement of Charges. In this report to the PCC, no individuals involved in the complaint investigation are identified by name.

If the PCC recommends that there is not probable cause to issue a Statement of Charges, then the Board reviews the PCC's recommendation. If the Board agrees with the PCC's recommendation, then the case is closed by the Board. A case may be reopened at a later date, if new information is received sufficient to determine that the case should be reopened and investigated further.

Once a case is closed, the Board may decide to send the psychologist an "educative letter." An educative letter is not considered by the Board to be disciplinary action. Such a letter does not subsequently appear on the Board's website or in the Board newsletter. This type of letter is intended to provide informal feedback to the psychologist in an expectation that the input may help the psychologist avoid being in a similar situation in the future.

If the PCC determines that there is probable cause to believe that a legal or ethical violation occurred, then a Statement of Charges is issued. Once a Statement of Charges is issued, a psychologist may choose to resolve the matter informally through entering into a Consent Order with the Board, rather than requesting a hearing. If the psychologist decides to resolve the matter informally, then a Consent Order may be agreed upon by the psychologist and Board staff, through the Board attorney. The full Board is not informed about the case until the matter is before it at a hearing, or through a Consent Order, if the matter is resolved informally. Possible outcomes following the issuance of a Statement of Charges, either through a hearing before the Board or through a Consent Order, are as follows: the Board takes no action; the Board takes remedial action; or the Board takes disciplinary action. Disciplinary action may include a Censure, Reprimand, Suspension or Revocation of a license. Further possible disciplinary outcomes include the Board placing practice limitations on a license, placing a license on probation, or other such actions as set forth in N.C. Gen. Stat. § 90-270.15(b). An example of a remedial action by the Board is requiring tutorials on a particular subject relevant to the Statement of Charges.

If the psychologist and Board staff agree on a Consent Order, the Consent Review Committee of the Board then reviews the Consent Order and determines whether it approves the Consent Order to be reviewed by the full Board. If the Consent Review Committee approves review by the full Board, then the Board reviews the Consent Order at its next scheduled meeting to determine whether to approve the Consent Order.

The psychologist may also elect to request a hearing before the Board regarding the allegations in the Statement of Charges. If a psychologist requests a hearing, then at least fifteen days prior to the hearing, the psychologist receives a notice of hearing setting forth the date, time, and location of the hearing. The case is heard at a formal hearing by the Board, which is comprised of seven members: three licensed psychologists; two licensed psychological associates; and two non-psychologist public members. At the hearing, the Board members are not permitted to discuss matters addressed at the hearing either with the psychologist, the psychologist's attorney, the board attorney, or any

article continued on page 5

article continued from page 4



witnesses either for the Board or for the psychologist, unless all parties to the case agree and are present for the discussion. The Chairperson of the Board typically presides over the hearing and serves as the spokesperson for the Board. The full seven members of the Board may not necessarily be present at a hearing, but at least four members must be present in order to conduct the hearing. There may also be an attorney seated with the Board members to advise the Board Chairperson on legal issues that may arise during the hearing; this is not the Board attorney, but a legal advisor to assist the Board in the hearing.

At the hearing, the psychologist is offered an opportunity to present his/her case. A court reporter is present to record the proceedings. The psychologist, or his/her attorney, is given the opportunity to present an opening statement. The Board attorney may also present an opening statement. The opening statement is not the time to testify, but rather to present an overview of the case. The psychologist may testify on his/her own behalf and may present exhibits for the Board to consider. The psychologist should plan to bring eleven copies of any exhibits he/she plans to introduce as evidence (one for each of the seven Board members, the board attorney, the legal advisor, the official record, and for the psychologist). The psychologist may also present witnesses to testify. All witnesses are placed under oath or affirmation, and the testimony is recorded by the court reporter.

Board members give the case and any witnesses that testify their utmost attention during the hearing. The psychologist and any witnesses may be questioned by the Board attorney. The Board members may also have questions of the psychologist and any witnesses who testify. The psychologist is offered an opportunity to cross examine any witnesses who testify on behalf of the Board. The length of any hearing will vary depending on the evidence and testimony that is presented.

Typically, hearings are open to members of the public. However, if testimony is given about any patient or client, the patient or client's initials may be used instead of a name to protect confidentiality. In addition, the Board may close any hearing to the public to receive evidence concerning the treatment of a patient/client, or delivery of psychological services to a patient/client, who has not consented to public disclosure of such treatment or services.

After all the evidence has been presented, including the psychologist's presentation of his/her case and the Board attorney's presentation of the Board's case, the psychologist is offered an opportunity to present a closing statement. The Board attorney may also present a closing statement.

Following the closing statements and closing of the hearing, the Board typically goes into closed session, at which time it deliberates on the matter to determine what, if any, action to take in any particular case. The Board issues a written Final Decision within 120 days of the hearing.

NOTE: This article was prepared for the North Carolina Psychology Board by Sondra Panico, Assistant Attorney General and Counsel to the Board. It has not been reviewed and approved in accordance with procedures for issuing an Attorney General's opinion.

Notice of Address Change

Please print legibly or email your address change to the Board at info@ncpsychologyboard.org.

Full Name: _____ License Number: _____ Preferred Mailing Address: Home Business

Home Address _____

City/State/Zip _____

Business Address _____

City/State/Zip _____

Daytime Phone Number _____ *Email Address _____

Mail address change form to NC Psychology Board,
895 State Farm Road, Suite 101, Boone, NC, 28607.

***It is very important that all licensees have a current email address on file as Board correspondence is frequently sent via email.**

ANNUAL REPORT AND SUPPLEMENTAL INFORMATION FROM 07/01/12-06/30/13

NUMBER OF:	
Individuals who applied to the Board for Examination	216
Individuals who were refused examination	12
Individuals who took the state examination	183
Individuals who took the national examination	144
Individuals who were issued a license	204
Psychological Associate	36
Licensed Psychologist	124
Licensed Psychologist (Provisional)	44
Application forms and state laws mailed	0
Visits to the Board's website (www.ncpsychologyboard.org)	46,840
Psychologists licensed in North Carolina as of 06/30/2013	3,963
Psychological Associate	1,234
Licensed Psychologist	2,662
Licensed Psychologist (Provisional)	67
Corporations and PLLCs registered	79
Official complaints received involving licensed and unlicensed activities	39
Complaints resolved	36
Complaints pending as of 06/30/2013	22
Investigations, including complaints, pending as of 06/30/2013	24
Disciplinary actions taken against licensees, or other actions taken against non-licensees, including injunctive relief (8 disciplinary; 4 remedial; 0 injunction)	12
Licenses suspended or revoked	2
Licenses terminated for any reason other than failure to pay the required renewal fee	0
Licenses terminated for failure to pay the renewal fee	NA

- DURING THE PAST FISCAL 2012-13 YEAR, THE BOARD:**
-  reviewed applications and licensed qualified individuals reviewed and resolved complaints regarding ethical and legal issues
 -  published one edition of psychNEWS, the Board's newsletter and provided formal training for new members
 -  sought fee increases to enable the Board to fulfill its statutory mandate to protect the public from incompetent, unethical, and unprofessional practice
 -  employed a new Executive Director to replace the previous Executive Director who had served the Board for 36 years

- OBJECTIVES FOR THE BOARD IN THE 2013-14 FISCAL YEAR INCLUDE:**
-  address budgetary and long-range planning issues
 -  continue to seek fee increases to enable the Board to fulfill its statutory mandate to protect the public from incompetent, unethical, and unprofessional practice
 -  continue to publish a newsletter, at least on a semiannual basis
 -  adopt, amend, and repeal rules as necessary
 -  implement requirement for criminal history record check

F R E Q U E N T L Y A S K E D Q U E S T I O N S

Does certification by the Behavior Analyst Certification Board, Inc. (BACB) allow persons to practice behavior analysis in North Carolina?

To practice psychology in North Carolina, which includes behavior analysis and therapy, as set forth in G.S. 90-270.2(8), one must be licensed by the Psychology Board or otherwise exempt from licensure under the NC Psychology Practice Act [G.S. § 90-270.4]. There is no exemption in the Act that permits individuals to engage in the practice of psychology solely on the basis of a national certification.

For more in-depth information regarding this issue, please refer to an article that appeared in the June 2010 NC Psychology Board newsletter, which was written by Dr. Thomas Thompson, Former Chair of the NC Psychology Board. The full article may be viewed on pages 2-3 of the newsletter at this link– <http://www.ncpsychologyboard.org/Office/PDFiles/NewsletterJune2010.pdf>.

Martha Storie Elected President-elect of ASPPB



At the 53rd Annual Meeting Delegates of the Association of State and Provincial Psychology Boards (ASPPB), held October 16-20, 2013 in Las Vegas, NV, Martha Storie, former Executive Director of the NC Psychology Board, was elected President-elect of ASPPB. Ms. Storie is the first non-psychologist to be elected to this prestigious office in ASPPB's fifty-two year history. Ms. Storie has been actively involved with ASBPP for more than 25 years, including serving as the organization's Secretary/Treasurer from 2006-2012 and serving on numerous committees.

During her acceptance speech, Ms. Storie noted that, while she had seen many changes during her more than 30 years of working with psychologists who regulated the practice of psychology, the "unchanging principle of protecting the public was always constant." In addition, Ms. Storie also noted that "ASPPB's commitment to focus its human and financial resources toward the activities that support its member jurisdictions in protecting the public through the regulation of the practice of psychology has been ongoing, and is essential." Ms. Storie further noted that "ASPPB must continue to respond to needs that result from the changing times and developments in the profession, while keeping public protection in the forefront" and that she was "committed to preserving ASPPB's open communication and transparency."

Ms. Storie will serve one year as President-elect and will then become President of ASPPB in October 2014. Her time in office will conclude with a one-year term as Past President beginning in October 2015.

In addition to officer and Board member elections and other association business matters, the Annual Meeting, which had a "CSI" theme as the meeting was held in Las Vegas, focused on investigations and disciplinary issues as well as legal and legislative updates from the forty-two jurisdictions in attendance, including North Carolina.

ASPPB is the alliance of state, provincial, and territorial agencies responsible for the licensure and certification of psychologists throughout the United States and Canada.

Formed in 1961, ASPPB currently has as members the psychology boards of all fifty states of the U.S. as well as the psychology boards of the District of Columbia, the U.S. Virgin Islands, Puerto Rico, Guam and all ten provinces of Canada.

LEGAL PROCEEDINGS

During the period of time from August 2, 2013 through November 14, 2013, the Board reviewed and closed five 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 two cases involving non-psychologists. Further, it issued remedial action in 3 cases.

Board Office Closed

In accordance with the holiday schedule adopted by the State of North Carolina the Board office will be closed the following dates:

December 24-26, 2013–Christmas

January 1, 2014–New Year's Day



THE NORTH CAROLINA PSYCHOLOGY BOARD

MEMBERS

Kristine M. Herfkens, Ph.D., ABPP, *Licensed Psychologist, Chair*
Robert W. Hill, Ph.D., ABPP, *Licensed Psychologist, Vice Chair*
Sarah Lynn-Sells Lambert, RN, BSN, M.Ed., *Public Member*
Jeffrey M. Lorence, M.A., *Licensed Psychological Associate*
Jane E. Perrin, Ph.D., *Licensed Psychologist*
J. Anthony Powell, M.A., *Licensed Psychological Associate*
Matthew I. Van Horn, J.D., *Public Member*

STAFF

Daniel P. Collins, J.D., *Executive Director*
Susan C. Batts, M.A., *Staff Psychologist*
Debbie Hartley, *Administrative Officer*
Rebecca Osborne, *Communication Specialist*
Sondra C. Panico, *Assistant Attorney General and
Counsel to the Board*

CENTRAL OFFICE

Address: 895 State Farm Road
Suite 101
Boone, NC 28607

Phone: 828-262-2258

Fax: 828-265-8611

E-mail: info@ncpsychologyboard.org

Website: www.ncpsychologyboard.org