



## FROM THE CHAIR

John T. Esse, Ph.D.

Since 2001, North Carolina has been undergoing major public mental health system reform. Certain aspects of the associated changes have stimulated periodic Board interest because of the Board's authority to protect the public from the practice of psychology by unqualified persons.

In the fall of 2004, a job description for the position "Care Manager" was sent to the Board for review. It was judged that some of the job responsibilities, if provided as described, would constitute the practice of psychology as defined in N.C. Gen. Stat. § 90-270.2(8). Under the heading, "Required Minimum Training," a bachelor's degree in a human service field and three years of experience or an equivalent combination of training and experience were deemed to be sufficient for the position. At that time, the Board expressed formal concern in a letter to the then-current secretary of the North Carolina Department of Health and Human

Services (DHHS), that the quality of care for clients seeking services in the mental health system might be compromised by placing responsibility for clinical services in the hands of individuals not sufficiently trained to provide the services and by not requiring proper licensure by an appropriate state regulatory board.

At the November 2006 Board meeting, a presentation was made by representatives from the Division of MH/DD/SAS regarding the possible implications of mental health reform for psychologists in the state. A copy of the letter referenced above was provided to the Chief of Clinical Policy, who understood the need for the state to look at core definitions and rules regarding such positions as "Qualified Professional." In response to Board concerns, he indicated that at some point, a workgroup (including Board representation) would be established to consider necessary changes in rules to create a better balance between access and quality/accountability.

More recently, in December 2007, the Board submitted a response to a DHHS request for input about proposed policy changes (hereinafter referred to as "new

policy") with regard to the Community Support (CS) service definition and Medicaid clinical coverage. The Board was concerned that this new policy appears to describe the role of the Qualified Professional (QP), the Associate Professional (AP), and the Paraprofessional (Para), as possibly resulting in their practice of psychology without a license. QPs, APs, and Paras as defined in 10A NCAC 27G .0104, are not required to be licensed by the N.C. Psychology Board or any other state professional regulatory board, nor are they required to meet an exemption to licensure, as set forth in N.C. Gen. Stat. § 90-270.4. Under Clinical Coverage Policy No. 8A, Point 6.2, QPs, APs, and Paras, as well as other staff "must be licensed and/or certified according to N.C. General Statutes and practice within the scope of practice as defined by the individual practice board." However, to the Board's knowledge, there is not a "practice board" for QPs, APs, or Paras. In this new policy, it appears that QPs, APs, and Paras have been granted the authority to practice psychology without being licensed by either the N.C. Psychology Board or any

*continued on Page 2*

## EDUCATIVE INPUT FROM THE BOARD

Sondra C. Panico

*This article takes a look at the investigative process and how a complaint might result in educative input from the Board.*

This article is written in an effort to provide psychologists with information about the responsibility of the Board with regard to providing educative feedback to its licensees. When a complaint is filed with the Board, it is routinely assigned to a Board investigator. Through the Board's authority to investigate complaints, pursuant to N.C. Gen. Stat. § 90-270.9, the Board may order the psychologist's re-

ords, or other records deemed to be relevant in order to properly investigate the complaint. Typically, the psychologist is directed to respond to the complaint. The Board investigator may interview the complainant, the psychologist, and/or any other witnesses, as he/she determines is necessary.

Once the investigation is completed, the Board investigator typically writes a summary report for the Probable Cause Committee (PCC) of the Board to review to determine whether there is probable cause of an ethical or legal violation sufficient to issue a Statement of Charges. If

*continued on Page 5*

## IN THIS ISSUE

From the Chair	1-2
Educative Input from the Board	1,5
Farewell, Pamela Corbett	2
What Does Interior Design Have to do with Supervision?	3
On the Web	4
Welcome New Board Members!	4
Legal Proceedings	5
Questionnaire Results	6
When a Subpoena Arrives on Your Doorstep	7
FAQs	8

other state licensing board that regulates their practice.

Additionally, the new policy states that, “rehabilitative service activities of Community Support consist of a variety of interventions that must directly relate to the recipient’s diagnostic and clinical needs as reflected in a comprehensive clinical assessment and outlined in the Person Centered Plan.” The policy also states that CS includes, among other interventions, “therapeutic mentoring that directly increases the acquisition of skills needed to accomplish the goals of the Person Centered Plan” and “direct preventive and therapeutic interventions that will assist with skill building.” These CS interventions appear to meet the definition of the practice of psychology in that they appear to involve the modification of human behavior by the application of psychological principles and because they involve the application of psychological principles to “enhance interpersonal relationships, work and life adjustment, per-

sonal effectiveness, behavioral health or mental health.”

The policy goes on to state that, “Persons who meet the requirements specified (10A NCAC 27G .0104) for Qualified Professional (QP), Associate Professional (AP), and Paraprofessional (Para) status and who have the knowledge, skills, and abilities required by the population and age to be served may deliver Community Support.” It also states that “Associate Professionals and Paraprofessionals will deliver Community Support services to directly address the recipient’s diagnostic and clinical needs under the direction of the Qualified Professional.”

There are other examples of responsibilities in this new policy, which appear to meet the definition of the practice of psychology, and which fall within the role of the QP, AP, or Para, who are not required to hold a license to practice psychology or to be licensed by any board that governs clinical practice. For example, the new

policy states that the QP provides “supportive counseling to address the diagnostic and clinical needs of the recipient.”

The Board has a mandate “to protect the public from the practice of psychology by unqualified persons” [N.C. Gen. Stat. § 90-270.1(b)]. The administrative code rules state that qualified professionals and associate professionals have “clinical skills” in their array of competencies (10A NCAC 27G .0203). Quality of care for clients seeking services through CS may thus be compromised by placing responsibility for clinical services, such as those described above, in the hands of providers not sufficiently trained to provide the services by not requiring the providers to be properly licensed by an appropriate state regulatory board in accordance with state statute.

The Board will continue to follow these developments and consider what further steps may be appropriate/effective. ■

## FAREWELL, PAMELA CORBETT



Pamela D. Corbett, M.A., dedicated five years of service to the North Carolina Psychology Board. At the July 2007 Board meeting, Ms. Corbett was presented with a plaque in recognition and appreciation for her insightful and steadfast service to the citizens of North Carolina as a member of the Board. Ms. Corbett took time out of her busy schedule to attend the December 2007 Board meeting, where she provided orientation for her replacement, Michael B. Jones, M.A. While Board members and staff look forward to working with the newest psychological associate member, we will certainly miss Ms. Corbett’s grounded perspective and voice of reason.

Vol. 15, No. 1



Interested in serving on the Board? On June 30, 2008, there will be two vacancies for a Licensed Psychologist and for a Licensed Psychological Associate member. All interested parties are encouraged to contact the North Carolina Psychological Association at 919-872-1005 no later than March 31, 2008, for more information.

### THE NORTH CAROLINA PSYCHOLOGY BOARD

#### MEMBERS

John T. Esse, Ph.D., *Licensed Psychologist, Board Chair*  
 Belinda R. Novik, Ph.D., *MSCP, Licensed Psychologist, Board Vice Chair*  
 Harry A. Fozzard, M.D., *Public Member*  
 Stephen W. Guttu, *Public Member*  
 Michael B. Jones, M.A., *Licensed Psychological Associate*  
 Jane E. Perrin, Ph.D., *Licensed Psychologist*  
 J. Anthony Powell, M.A., *Licensed Psychological Associate*

#### STAFF

Martha N. Storie, *Executive Director*  
 Randy Yardley, M.A., *Staff Psychologist*  
 Susan C. Loy, M.A., *Staff Psychologist*  
 April G. Everett, *Communication Specialist*  
 Debbie Hartley, *Administrative Officer*  
 Wilma Ragan, *Office Assistant*  
 Sondra C. Panico, *Assistant Attorney General and Counsel to the Board*

#### CENTRAL OFFICE

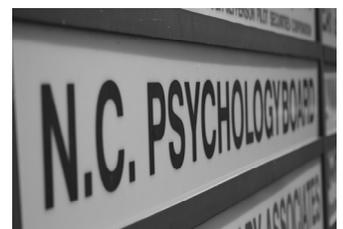
Address: 895 State Farm Road  
 Suite 101  
 Boone, NC 28607

Phone: 828-262-2258

Fax: 828-265-8611

E-mail: [ncpsybd@charter.net](mailto:ncpsybd@charter.net)

[www.ncpsychologyboard.org](http://www.ncpsychologyboard.org)



## WHAT DOES INTERIOR DESIGN HAVE TO DO WITH SUPERVISION?

Susan C. Loy, M.A.

*Many licensees and applicants hear the word "supervision" and automatically think, "does not apply to me." However, all applicants, provisionally licensed psychologists, and licensed psychological associates must have a Supervision Contract Form on file, even if working in a field far from the practice of psychology.*

One of the most misunderstood Board forms, sometimes completed incorrectly, and occasionally altogether ignored, is the Supervision Contract Form. This form must be completed by all applicants for licensure while they are in applicant status. Upon becoming licensed, contract forms must be submitted, as required by Board rules, by licensed psychological associates (LPAs) and provisionally licensed psychologists, as mandated for their levels of licensure. The contract form contains two distinct sections--Section 1, which shows that supervision is required and is being received, and Section 2, which shows that supervision is not required. Only one section may be completed per contract form.

The focus of this article is on the section of the Supervision Contract Form that shows supervision is not required: Section 2. This section must be completed by LPAs whose professional practice is limited to those activities that do not require supervision, and by provisionally licensed psychologists and applicants who are not presently involved in the practice of psychology in North Carolina. At this point, one might ask, "Why would I be required to file a Supervision Contract Form with the Board when I am not engaged in activities that require supervision or am not even involved in the practice of psychology?" According to 21 NCAC 54 .2007(c), .2008(e), and .2009(f), applicants, provisionally licensed psychologists, and LPAs must file a contract form to "document either that supervision is required and shall be received, or *that supervision is not required.*" It is also a requirement in rule that a separate contract form be filed for each separate work setting, and that a new or revised contract form be filed within 30 days of a change in the conditions specified in the contract form on file.

Section 2 of the Supervision Contract Form may cover either psychology related activities, such as the teaching of psychology, the collection of research data, program development, or activities that are totally unrelated to the practice of psychology, such as sales, business management, food service, administration, interior design, etc. When completing Section 2, one must provide a detailed description of one's activities in Item A. This is a requirement because the Board determines, based on statute and Board rule, whether or not the activities require supervision. In the past, some individuals have completed Section 2 of the contract and have mistakenly attested that supervision was not required, although at least some of the activities

listed in Item A did, in fact, require supervision.

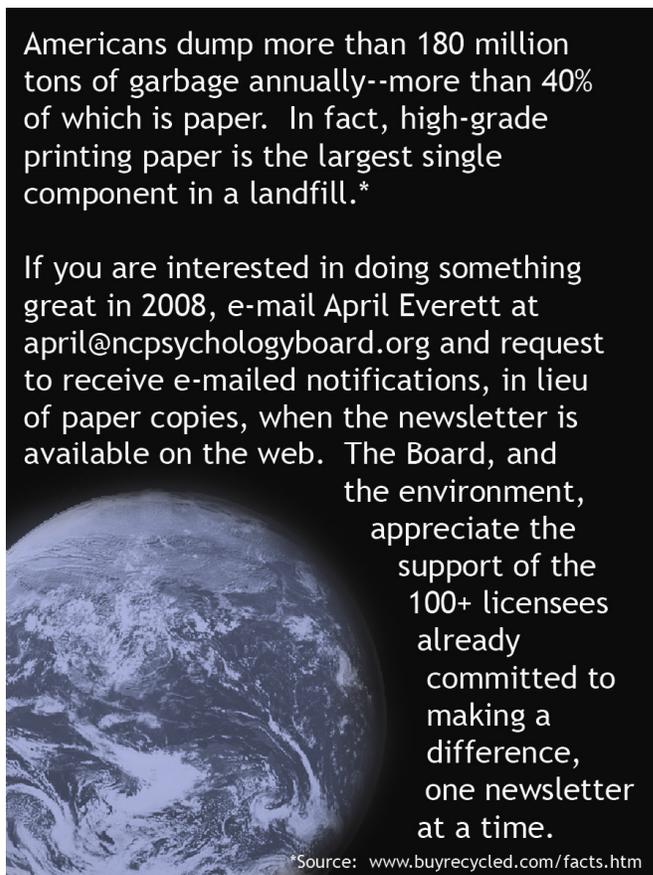
Section 2 of the Supervision Contract Form may be completed by LPAs whose activities do not require supervision, as specified in N.C. Gen. Stat. § 90-270.5(e) and 21 NCAC 54 .2006, or by persons licensed by the North Carolina Board of Education as school psychologists whose professional activities are limited to those for which they are regularly salaried employees of local boards of education or by the North Carolina State Department of Public Instruction. Section 2 is also to be completed by individuals who are engaged only in activities which constitute a part of one's course of study (e.g., an LPA who is in a doctoral psychology internship as a matriculated graduate student), are unemployed, are practicing outside of North Carolina, or are retired and not employed otherwise.

Regardless if one is practicing psychology in North Carolina, working in another field, or not working at all, if the individual is an applicant, provisionally licensed psychologist, or LPA, a current Supervision Contract Form must be on file at all times. When an individual signs Section 2 of the contract form, he or she is attesting that the activities described in the contract do not require supervision and that, if the activities described change in the future, he or she will notify the Board of the change and file a revised contract form within 30 days of the change. If you have any questions about completing Section 2 of the Supervision Contract Form, please feel free to contact the Board office. ■

Americans dump more than 180 million tons of garbage annually--more than 40% of which is paper. In fact, high-grade printing paper is the largest single component in a landfill.\*

If you are interested in doing something great in 2008, e-mail April Everett at [april@ncpsychologyboard.org](mailto:april@ncpsychologyboard.org) and request to receive e-mailed notifications, in lieu of paper copies, when the newsletter is available on the web. The Board, and the environment, appreciate the support of the 100+ licensees already committed to making a difference, one newsletter at a time.

\*Source: [www.buyrecycled.com/facts.htm](http://www.buyrecycled.com/facts.htm)



## ON THE WEB

The following forms are now available on the Board's website as interactive PDFs, meaning that information may be typed directly into text fields. If you have any questions about these forms, please do not hesitate to contact the Board office.

### Under "Supervision" Link:

- Supervision Contract Form
- Supervision Report Form
- Alternate Supervision Plan
- Supervision Record Form
- Application for Reduced Supervision
- Report for Reduced Supervision

### Under "Application for Licensure" Link:

- Application for Licensure
- LP DOC #2 and #3
- PA DOC #2, #3, and #4
- Supervision Contract Form
- Reference Form
- Supervisor Form
- Transmittal Form
- Health Services Provider (HSP) Application
- HSP FORM #1
- Senior Psychologist Attestation Form
- Verification of Degree Form

### Under "Application for Reinstatement of Licensure" Link:

- Application for Reinstatement
- Reinstatement Application—Continuing Education Attestation (CEA)
- [Individual] CEA Form
- Supervision Contract Form
- Reference Form
- Supervisor Form
- Transmittal Form
- HSP Application

### Under "Provisional to Permanent Licensure" Link:

- Application for Licensure: Licensed Psychologist Permanent Level
- HSP Application

### Under "Filing a Complaint" Link:

- Complaint/Inquiry Form

### Under "Incorporation/PLLC" Link:

- Application for Certificate of Registration of Professional Corporation
- Application to Add Shareholders to a Corporation
- Amendment of Name of Corporation
- Application for Certification of Registration of PLLC
- Application to Add Members to PLLC
- Amendment of Name of PLLC

## WELCOME NEW MEMBERS!

April G. Everett

*The Board extends a warm welcome to its newest members, Stephen W. Guttu, and Michael B. Jones, who were appointed by Governor Easley to serve as the Board's newest public and psychological associate members, respectively.*



After putting in 33 years of service to the State Office of Emergency Medical Services, **Stephen W. Guttu** (pictured left) decided 2004 was a good year to hang up his hat, but not for long. After only two short years of retirement, he began his career in real estate, becoming a broker in charge of his own firm, Edenton Buyers First Realty. In December 2006, he joined RE/MAX Land and Home Specialists in Edenton as an associate broker, where he is currently employed.

Mr. Guttu has devoted many years to volunteer service in Edenton, Chowan County, and the Albemarle area. He and his wife, Martha, longtime Chowan County residents, have two married daughters, and four grandchildren.

**Michael B. Jones** (pictured right), a native of Beulaville, has been a Licensed Psychological Associate (LPA) for five years. Prior to becoming an LPA, he served three years in the public schools of North Carolina as a school psychologist. Mr. Jones holds a certificate by the Board as a Health Services Provider—Psychological Associate and certification by the National Association of School Psychologists as a Nationally Certified School Psychologist (NCSP).



In both the public and private sectors, Mr. Jones has been an advocate for child and family mental health services. While employed with the Onslow and Duplin County School Systems, he directed the development of district-wide crisis response teams and instructed workshops on a number of mental health topics. He also served on the North Carolina Attorney General's State Task Force for Anti-Bullying.

Mr. Jones and his wife, Kendra, a Speech-Language Pathologist, have continued to serve children and families by providing private and contract services in the community. They have one child, Nathaniel.

Undoubtedly, the Board will be enlightened by the fresh perspective these new members have to offer. Welcome, Mr. Guttu and Mr. Jones! ■

ONLY 8 LEFT IN 2008...

It is doubtful that many licensees were dreaming of continuing education credits while friends gathered round to sing *Auld Lang Syne*. However, it is a certainty for licensees that welcoming 2008 also means welcoming another renewal year. There are only 8 months left before license renewal; if you have not already done so, you should begin accruing the 18 hours of required credits.

## LEGAL PROCEEDINGS

*During the period of time from October 1, 2007, through January 31, 2008, the Board held five administrative hearings. It reviewed and closed fifteen complaint cases involving psychologists in which it either found no evidence of probable cause of a violation or insufficient evidence to issue a statement of charges, and six cases involving non-psychologists. Further, it took the following action:*

- Brian J. Bauduin, M.S. - FINAL DECISION was approved on December 13, 2007. Mr. Bauduin's conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(10), 90-270.15(a)(11), 90-270.15(a)(20), 90-270.15(a)(21); and Standards 3.04, 3.08, and 10.05 of the APA Ethics Code. Mr. Bauduin's Psychological Associate license is REVOKED, and he must remit \$1800.00 in costs. A petition for judicial review of this decision was filed by Mr. Bauduin in Mecklenburg County Civil Superior Court on January 17, 2008.
- Andrea F. Facci, Ph.D. - REVISED CONSENT ORDER was approved on November 2, 2007. Dr. Facci admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.5(d)(3), 90-270.5(e), and 90-270.15(a)(7) of the N.C. Psychology Practice Act; and 21 NCAC 54 .2002(b)(6), .2008(h), and .2009(c) & (f) of Board rules. Dr. Facci's psychological associate license is CENSURED. On her own initiative and not at the Board's request, Dr. Facci requested to voluntarily relinquish her license as a psychological associate, and the Board accepted her relinquishment. If her license to practice psychology is reinstated, she must meet specified supervision requirements. She is assessed \$300.00 in costs.

- Maria Lapetina - CONSENT ORDER was approved on December 13, 2007. Ms. Lapetina admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(5) & (a)(10) of the N.C. Psychology Practice Act, and Standards 5.01(b) and (c) of the APA Ethics Code. Further, her conduct violates the terms of the Consent Order which she entered into with the Board on October 22, 2002. Ms. Lapetina's psychological associate license is REPRIMANDED; she must comply with specified conditions regarding representation of her educational training and licensure status; and she must remit \$300.00 in costs.
- J. Gregory Olley, Ph.D. - CONSENT ORDER was approved on October 4, 2007. Dr. Olley admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.5(e) and 90-270.15(a)(7) and (a)(10) of the N.C. Psychology Practice Act; and 21 NCAC 54 .2001(c)(8)(A)-(C) of the N.C. Psychology Board rules. A temporary limitation is placed on Dr. Olley's license. He shall not supervise enumerated individuals for a period of at least six months after the CONSENT ORDER is signed or until he has fully complied with all of the conditions set forth in the CONSENT ORDER and received written approval by the Board to resume supervision, whichever time period is longer. Dr. Olley's supervisory records are subject to random review for a period of two years from the date of his filing a supervision contract with a supervisee. He must successfully complete tutorials and remit \$300.00 in costs.

**NOTE: License verification is available on the Board's website and includes whether or not Board action has been taken on an individual license.**

### *continued from front page*

the PCC determines that there is probable cause that a violation has occurred, then a Statement of Charges is issued. 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 that the Board takes no action or that the Board takes disciplinary action, such as a Censure, Reprimand, Suspension or Revocation of a license. Other possible outcomes are remedial action, such as requiring tutorials; practice limitations; probation; or other such action as set forth in N.C. Gen. Stat. § 90-270.15(b).

If the PCC recommends that there is not probable cause to issue a Statement of Charges, then the Board receives a summary of the case at its regular meeting and 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.

After a case is closed, the Board may decide, either upon recommendation of the PCC or on its own, 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. It is a letter to the psychologist intended to provide informal feedback in an expectation that the input will help the psychologist avoid being in a similar situation in the future.

The Board views this type of input to a psychologist as part of its role in protecting the public, because, while the case resulting in the educative letter did not involve violations of the N.C. Psychology Practice Act or Ethical Principles of Psychologists and Code of Conduct (*American Psychological Association, 2002*), to warrant the issuance of a Statement of Charges, a future case, if this type of conduct by the psychologist were to continue or become more serious, could result in Board action. The Board anticipates that, by providing this type of feedback, it will avoid any similar difficulty from ever occurring. ■

*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.*



## SATISFACTION AND OPINION QUESTIONNAIRE RESULTS



April G. Everett

*As promised in the last edition of the newsletter, the Board is publishing the results of the questionnaire. The Board appreciates the 57 licensees who took the time to respond.*

The following items appeared in the Board's Satisfaction and Opinion Questionnaire, which was available to licensees from November 1, 2007, through February 1, 2008. Percentages have been rounded to the nearest whole number. Various feedback is included in this article to give licensees an idea of the responses the Board received.

1. Telephone calls and e-mails to the Board office are answered promptly and in a courteous manner.

Yes-90%      No-2%      N/A-8%

2. Board and staff members are respectful in their manner of relating to licensees and respond to requests for information and services in a timely manner.

Yes-88%      No-7%      N/A-5%

**Feedback-** "Not always-I have heard a number of complaints, including recently, about graduate students and psychologists moving from out of state who have found the process cumbersome and slow, and have been made to feel unwelcome."

**Feedback-** "I think the Board does a superb job of tracking on a variety of details. Feedback provided by the Board has always been very helpful, and timely."

3. Materials and information provided by the Board and staff are clear, helpful, and understandable.

Yes-86%      No-12%      N/A-2%

**Feedback-** "Some materials (e.g., licensure process and requirements) are hard to understand if not familiar. Would be great to have explained in plain English."

**Feedback-** "Over the last year to 2 years the written communication from the Board has been more polite and courteous, instead of the punitive tone that I felt was there. I have greatly appreciated the change in the written communication."

4. I find the Board website informative, appropriate, and easy to use.

Yes-81%      No-7%      N/A-12%

**Feedback-** "It would be helpful if all forms were available, such as the Alternate Supervision form which has to be requested by mail."

**Feedback-** "Thank you so much for all the enhancements to the website (interactive forms etc.)—that is particularly important to those of us who live overseas."

5. Number of times I contact the Board office (by mail, telephone, e-mail, etc.) each year.

0-1— 53%      2-3—39%      4+—9%

6. Number of years I have been licensed in North Carolina.

0-5— 31%      6-10—18%      11-20—18%      21+—33%

7. Additional Comments.

**Feedback-** "I think that the NCPB and office staff do an outstanding job of keeping us informed, educated and totally up to date on the latest news relating to licensure!! Thanks for your great work!"

**Feedback-** "Contracts and paperwork for supervision is very time consuming, and will be more so now that [reports] are due each year even if no changes have been made. Fewer Ph.Ds are willing to provide supervision. Fewer agencies are willing to hire LPAs due to the inconvenience of ongoing supervision. Fewer individuals are pursuing LPAs and are instead pursuing more marketable, less cumbersome licenses, such as LPCs and MSWs. I believe this is something for the Board to be aware of, as LPAs provide many services in the state, but are becoming less able to compete with other disciplines, as they cannot obtain independent status. Any assistance with making supervision arrangements more manageable would be greatly welcomed."

**Feedback-** "I think service has improved over the past decade. Written materials are still a little convoluted, but the Psych News is clear and helpful. Thanks to all of the staff and to the board for your work."

In upcoming newsletters, the Board will attempt to provide clarification about, and to report steps taken to improve upon, issues raised in the questionnaire. Some changes have already been implemented as a result of your feedback; for example, the Alternate Supervision Form is now available in interactive format on the Board's website.

Although the survey has been retired, the Board encourages you to continue to send comments/feedback to the Board office. Please be as specific as possible—for example, if you believe a particular form should be revised, be sure to explain what you find confusing and ways you believe it may be improved. The more detailed you are, the better the Board may respond. ■



## WHEN A SUBPOENA ARRIVES ON YOUR DOORSTEP

Randy Yardley, M.A.

Not infrequently, a licensee of the Board will call the Board office to say that he or she has been subpoenaed to court in some matter and will ask how to respond or, in some cases, whether they are free not to respond and ignore the subpoena altogether. This article is written to provide some guidance for what to consider when a subpoena arrives at your doorstep, in the mail, or by phone. This article is not meant in any way to provide legal advice, and if you require legal advice, you may wish to consult with an attorney.

In some situations, it is clear from the subpoena what the matter involves, and often, the licensee has been informed by either a client, a former client, or a client's attorney what the issues are about which the psychologist is expected to testify. Upon receiving a subpoena, first and foremost, read the subpoena very carefully. Pursuant to Rule 45(a)(1) of the North Carolina Rules of Civil Procedure, the subpoena shall state, in part:

- a. The title of the action, the name of the court in which the action is pending, the number of the civil action, and the name of the party at whose instance the witness is summoned.
- b. A command to each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated records, books, papers, documents, or tangible things in the possession, custody, or control of that person therein specified.

Therefore, the subpoena should provide the name, address, and telephone number of the person issuing the subpoena and where and when to appear. You may be subpoenaed to appear for a deposition, which may take place in an attorney's office or other professional's office, or to a courtroom for a hearing. Unless you

already know what the matter involves and have the consent of a client or former client to provide testimony, you may want to contact the party who issued the subpoena and discuss what the purpose is for your testimony. Unless you can work it out otherwise with the party, you should appear as directed. If the time and date will cause a serious disruption in your practice, if you have a conflict that makes it difficult to appear, or if you will be out-of-town at the time scheduled for appearance, it would be appropriate to inform the party who issued the subpoena and attempt to work out a suitable time to appear in response to the subpoena. The party who issued the subpoena is required to take "reasonable steps to avoid imposing an undue burden or expense on a person subject to a subpoena" [Rule 45 (c) of the North Carolina Rules of Civil Procedure]. If you believe that a subpoena is placing an undue burden or expense on you, you may wish to consult with an attorney about objecting to the subpoena. If, however, you decide on your own not to appear, you can be held by a judge in contempt of court for not appearing or be required to pay reasonable expenses, including attorney's fees, caused by your failure to comply.

In addition to being subpoenaed to appear yourself, your records may also be subpoenaed. As noted above, under Rule 45(a)(1)b, you may be subpoenaed "to produce and permit inspection and copying of designated records . . ." If this occurs, pursuant to N.C. Gen. Stat. § 8-53.3, it is important to remember at all times that you cannot disclose the content of your records or the actual written records without the consent of your client or former client. In addition, you should review the provisions of the APA Ethics Code, under Standard 4.05 Disclosures, for additional information in this regard. Otherwise, if a subpoena requires the disclosure of privileged or other protected matter, and no exception or waiver applies to the privilege or protection, then you may decide to file written objections to the subpoena. If you believe that the subpoena is requesting information of this type, you may wish to consult with an attorney about objecting to the subpoena.

Pursuant to N.C. Gen. Stat. § 8-53.3, the only mechanism provided for disclosure of privileged communication without the consent of the client or patient is through the court compelling disclosure pursuant to a court order. However, some agencies in the state have authority to order the production of records, such as the Board and local departments of social services.

It is not uncommon for Board staff to be informed that a licensee has been subpoenaed to provide testimony in a case involving child custody when the psychologist has either been providing, or previously provided, marital or couples counseling, or has been providing services to only one of the litigants in the case, and the attorney for the opposing side has issued the subpoena. These situations can be especially difficult to deal with because of the confidentiality issues involved, particularly in relation to marital counseling. Under N.C. Gen. Stat. § 8-53.6, a licensed psychologist or licensed psychological associate who has provided marital counseling is deemed to be not competent to testify if the action for which the licensee has been called to testify involves divorce or alimony. Again, if you believe that a subpoena is requesting privileged or protected information, you may wish to consult with an attorney about objecting to the subpoena.

Other issues to consider and anticipate as you prepare to testify are whether there are children involved, whether one of the litigants has been abusive in some way to the other or to their children, and, among others, whether disclosure in court or in a deposition places one or the other individuals about whom you would testify at risk for harm. If this is the case, either before you testify, or at the time of your testimony, you may wish to raise concerns to the proper official of the court who is involved, either the attorneys or the presiding judge in the matter.

If you receive a subpoena and are unsure how to respond, you may contact the Board office. Be aware that Board staff cannot provide you with legal advice, and in many cases, staff will advise you to consult an attorney as appropriate. ■

# FREQUENTLY ASKED QUESTIONS

I am a provisionally licensed psychologist and have reached the end of the post-doctoral year. Am I now considered permanently licensed?



There is a process to move from provisional licensure to permanent licensure. Until you have received written confirmation from the Board that you are permanently licensed, you must continue to receive one hour of face-to-face supervision during any week in which you engage in the practice of psychology. When you believe you have completed the post-doctoral year requirement, i.e., 1500 hours and 12 months of practice, you may then complete the Application for Licensure: Licensed Psychologist Permanent Level and the Application for Health Services Provider. These application forms are available under the "Provisional to Permanent" link on the Board's website.



I recently submitted a Supervision Contract Form, which was returned with the request that I complete the most recently printed version of the form. Why is this necessary, and how do I ensure that I am using the most current versions?

Because updated forms ask for new/additional information, it is imperative that licensees submit current forms to the Board. To ensure that you are using the most current version of a form, look for the date in the bottom, right corner of the page. If the date is several years old, you may want to spot-check the forms available on the web, or contact the Board office. Checking with the Board in advance may save you valuable time

## UPCOMING BOARD MEETINGS

May 7-9, 2008

July 16-18, 2008

October 1-3, 2008

December 3-5, 2008

If you have recently changed your address, be sure to let the Board know by mailing, e-mailing, or faxing your updated mailing information to the Board office (see pg. 2 for Board contact information).

*psych*NEWS is prepared by the North Carolina Psychology Board. 3500 copies of this public document were printed at a cost of \$1909.10, or \$0.55 per copy.



PRESORT STD.  
U.S. POSTAGE  
PAID  
PERMIT #  
BOONE, NC

North Carolina Psychology Board  
895 State Farm Road  
Suite 101  
Boone, NC 28607

*psych*NEWS