

## Reflections of a Board Chair



A message from the Board's former Chair, Kristine M. Herfkens, Ph.D., ABPP-CN

As I leave the Board at the completion of a three year term, I want to take this opportunity to let each of you know that I have been honored to serve as a member of the Board and have enjoyed my service. As the immediate past Chair of the Board, a juncture such as this offers an opportunity both for reflection and to offer unbridled opinions. I hope this column will provide the psychology community a window into some of the meta-issues confronting the Board.

When I began my term I had some qualms about what I might find. I had often heard the Board described as adversarial and unsympathetic to psychologists. Nothing could have been further from the truth. From the beginning, I encountered a caring and curious group of people who wrestled with Board operations and dealt with concern for the individual psychologist(s) while focusing on the mission of the Board: *To protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology.*

The Board faces numerous challenges in the coming years. There are difficult decisions that have the potential to impact adversely the Board's ability to effectively and efficiently accomplish its mission and to meet its legislative mandate.

In the first quarter of 2011, Randy Yardley, the Board's experienced and highly valued staff psychologist and investigator, retired after 15½ years of service to the Board. As a result of fiscal realities of state government, the Board was not able to fill the position upon his retirement, and all investigatory responsibilities were shifted to the one remaining staff psychologist. Other duties that had been performed by the two staff psychologists, such as file review and responding to complex inquiries, were shifted to Board members and other staff. During this same time period, the Office of the State Controller, Department of State Treasurer, and Office of State Budget and Management, which had performed numerous financial tasks for the Board, began its transition to cease performing those tasks and move those responsibilities to Board staff. The additional workload for both staff and Board members resulted in the Board having to reduce the number of new, additional projects and having to increase the amount of time to respond to licensure applications and other matters before the Board.

Financial concerns similar to those in all state government agencies continue to present major challenges. The financial resources available to the Board to meet its legislative mandate have been significantly reduced, as the cost of operations has continued to rise. For example, since 1993, there has been an eight fold increase in the costs of personnel and legal services due to the addition of critical staff and inflationary increases. The Board is facing a crisis in funding. Each available solution comes with a distasteful or unsatisfactory consequence.

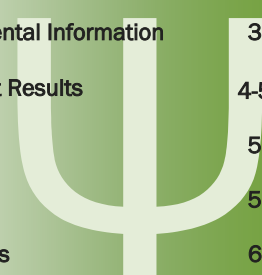
Although I have always paid my licensing fee, I never considered the stability of the fee until faced with the Board's responsibility for managing the finances. The Psychology Board has not raised fees since 1994. Frankly, I find that shocking. While certainly no one wants to burden licensees in these difficult times, the Board must meet its legislative mandate to enforce the NC Psychology Practice Act. In the long term, I believe the Board must consider substantially increasing fees to ensure future solvency, although a fee increase is a solution only to long-term financial concerns.

For the short-term, changes that could potentially alter the character or functionality of the Board and staff may have to be considered to survive the immediate crisis. As changes (beyond what I have communicated in this message) are proposed or implemented, I am confident that licensees will be informed.

We are fortunate to have had Martha Storie as the only executive director of the Board. However, Martha may want to take that step into retirement in the not too distant future. When she does, the Board will have some large shoes to fill. The Board must develop a succession plan and a process that is more than a "recruit and hire" to ensure a smooth transition while grappling with a myriad of issues. This is not as "simple" as finding the right person. For example, is it time for the Board to be located in a more central location within the state? If the office

*continued on Page 2*

| IN THIS ISSUE                            |     |
|--|-----|
| State Expands Medicaid Waiver            | 2   |
| Annual Report & Supplemental Information | 3   |
| Continuing Education Audit Results       | 4-5 |
| Legal Proceedings                        | 5   |
| Board News                               | 5   |
| Frequently Asked Questions               | 6   |



*continued from Page 1*

moves to another location within the state, how does that impact the staff? Is there a more effective and efficient way of managing operations on a day-to-day basis? These are all difficult and time-consuming matters for the Board, and unfortunately, the decisions come with price tags both financial and personal. In the midst of the current situation, or perhaps because of it, I believe the Board must spend time and energy thoughtfully and strategically planning for the future. Again, serving on the Board was a rewarding experience. I wish the Board well in its continued endeavor to successfully meet its legislative mandates.

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## STATE EXPANDS MEDICAID WAIVER MODEL

By John Esse, Ph.D.

In June of this year, the North Carolina General Assembly enacted Session Law 2011-264 (House Bill 916), "An Act to Establish Requirements for the Department of Health and Human Services and Local Management Entities with respect to Statewide Expansion of the 1915 (B)/(C) Medicaid Waiver." A full transition to the waiver model is slated to occur by July, 2013. (See: <http://www.ncga.state.nc.us/Sessions/2011/Bills/House/PDF/H916v5.pdf>.)

Local management entities (LMEs) are currently responsible for managing state public mental health dollars earmarked for providing services to persons who do not have third party health insurance coverage or Medicaid. Most Medicaid services are authorized by Value Options, a private firm. A key exception is PBH (formerly Piedmont Behavioral Health), an LME which, since 2005, has piloted the waiver model. The essence of that model is that the LME is allotted a fixed amount of money (i.e., "capitation", based on the per-person cost for their Medicaid population), to manage all Medicaid services for mental health, intellectual and developmental disabilities, and substance abuse (MH/IDD/SA) consumers. In turn, the LME is "at risk", in that they are obligated to provide medically necessary services with the funds allotted to them. Any unused funds must be reinvested back into services.

Thus, in the waiver model, the LME functions as an umbrella managed care organization. Among other functions, it can approve or disapprove private providers of mental health services, authorize specific services for mental health consumers, and even develop new service definitions. These powers should result in greater local control and accountability, e.g., vis-à-vis the quality and integrity of private for-profit providers, some of whom have, in the past, exploited the traditional Medicaid reimbursement system. Another key implication is that the consumer's freedom of choice is "waived," due to the fact that, as suggested above, not all providers will be in the "network." It will obviously behoove licensees interested in providing public mental health services to maintain knowledge of and conformity to relevant LME provider requirements.

In the waiver environment, all federal reporting and other Medicaid requirements must still be met. However, with the Medicaid Waiver, home and local community based services for disabled individuals can be provided in more creative ways than with the traditional state-wide system. The hope is that the waiver system will be more responsive to the real needs of consumers. And at the same time, if projections are fulfilled, it is a system that will save the state money by reducing administrative costs, by employing active care coordination and utilization management, and by decreasing the use of expensive emergency department and inpatient services.

Concerns have been expressed by some regarding this paradigm shift, primarily by county officials and stakeholders in the IDD arena. HB 916 was intended to address some of these concerns by clarifying various aspects of accountability within the new system. For example, the statute indicates that "county governments are not financially liable for overspending or cost overruns" associated with the waiver. It further mandates accountability (via the Department of Health and Human Services) for "the development and management of a local system that ensures easy access to care, the availability and delivery of necessary services, and continuity of care for consumers in need of" MH/IDD/SA services. Systems for ongoing communication, feedback, and coordination with various community stakeholders are also an explicit expectation of lawmakers.






To be approved for the waiver, an LME must have at least 70,000 Medicaid-eligible persons within an overall population of 500,000 or more. This will clearly mean a reduction in the number of LMEs in the state, from the current 23 to perhaps less than half that number. Reducing the number of LMEs in order to gain economy of scale has been a goal of the state for several years. Implementing the waiver concept will force mergers and, in fact, mergers are currently in process for a number of LMEs across the state.

Programs that have been approved beyond PBH are Western Highland Network (to begin January, 2012), East Carolina Behavioral Health (to begin April, 2012), Sandhills Center (to begin July 2012), and Mecklenburg County (on delayed status). DHHS announced on July 26th, 2011, that three additional LMEs were selected to participate in the Medicaid Waiver for MH/IDD/SA services, namely Eastpointe, Pathways, and Smoky Mountain Center. On September 30, 2011, it was announced that The Durham Center was selected. Several others have applications or reapplications in the pipeline. By the time this article is published, some of these may also have been approved.






## ANNUAL REPORT AND SUPPLEMENTAL INFORMATION FROM 07/01/10-06/30/11

| NUMBER OF:  |        |
|---|--------|
| Individuals who applied to the Board for Examination  | 219    |
| Individuals who were refused examination  | 14     |
| Individuals who took the state examination  | 169    |
| Individuals who took the national examination   | 130    |
| Individuals who were issued a license   | 202    |
| Psychological Associate   | 43     |
| Licensed Psychologist   | 119    |
| Licensed Psychologist (Provisional)   | 40     |
| Application forms and state laws mailed<br>(This number has decreased since forms are now available on the Board's website)   | 22     |
| Visits to the Board's website (www.ncpsychologyboard.org)   | 48,680 |
| Psychologists licensed in North Carolina as of 06/30/2011   | 3822   |
| Psychological Associate   | 1255   |
| Licensed Psychologist   | 2503   |
| Licensed Psychologist (Provisional)   | 64     |
| Corporations and PLLCs registered   | 58     |
| Official complaints received involving licensed and unlicensed activities   | 52     |
| Complaints resolved   | 66     |
| Complaints pending as of 06/30/2011   | 26     |
| Investigations, including complaints, pending as of 06/30/2011  | 33     |
| Disciplinary actions taken against licensees, or other actions taken against non-licensees, including injunctive relief (6 disciplinary; 8 remedial; 0 injunction)                                    | 14     |
| Licenses suspended or revoked   | 1      |
| Licenses terminated for any reason other than failure to pay the required renewal fee (2 voluntarily relinquished with Board's consent; 1 voluntarily relinquished under a Consent Order; 3 deceased) | 6      |
| Licenses terminated for failure to pay the renewal fee  | 127    |

### DURING THE PAST FISCAL YEAR, THE BOARD:

-  reviewed applications and licensed qualified individuals
-  reviewed and resolved complaints regarding ethical and legal issues
-  published three editions of psychNEWS, the Board's newsletter
-  continued to work on revisions to supervision and continuing education rules
-  provided formal training for new members

### MAJOR OBJECTIVES FOR THE BOARD IN THE NEW FISCAL YEAR INCLUDE:

-  continue to publish a newsletter on a regular basis
-  publish supervision rules for further comment
-  adopt and amend other rules as necessary
-  discuss budgetary, succession, and long-range planning issues
-  implement requirement for criminal history record check

## EXAM RESULTS

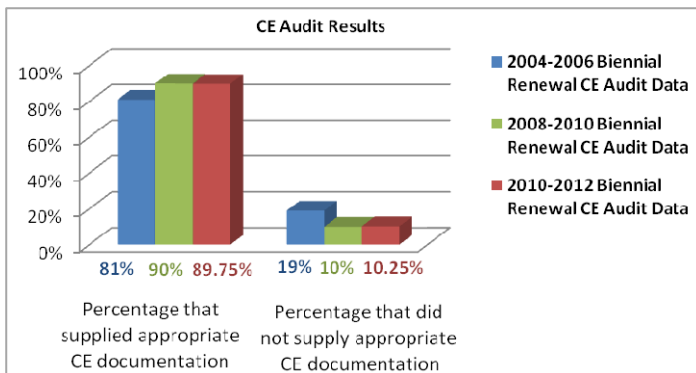
Performance of Graduates of North Carolina Universities on the Examination for Professional Practice in Psychology from 07/01/10-06/30/11.

| Program    | LICENSED PSYCHOLOGICAL ASSOCIATE |     |     |      |      |       |        |       |       |     | LICENSED PSYCHOLOGIST |      |       |       |        |
|------------|----------------------------------|-----|-----|------|------|-------|--------|-------|-------|-----|-----------------------|------|-------|-------|--------|
|            | ASU                              | ECU | FSU | NCCU | NCSU | UNC-C | UNC-CH | UNC-G | UNC-W | WCU | Duke                  | NCSU | UNC-C | UNC-G | UNC-CH |
| Clinical   | 2/0                              | 1/0 | 0/0 | 3/3  | 0/0  | 3/1   | 0/0    | 1/0   | 5/3   | 0/1 | 1/0                   | 0/0  | 2/0   | 1/0   | 3/0    |
| Counseling | 0/0                              | 0/0 | 0/2 | 0/0  | 0/0  | 0/0   | 0/1    | 0/0   | 0/0   | 0/0 | 0/0                   | 0/0  | 0/0   | 0/0   | 0/0    |
| School     | 0/0                              | 2/0 | 0/0 | 0/0  | 1/0  | 0/0   | 0/0    | 0/0   | 0/0   | 1/0 | 0/0                   | 1/0  | 0/0   | 0/0   | 4/2    |
| Other      | 0/0                              | 0/0 | 0/0 | 0/0  | 0/0  | 0/0   | 0/0    | 0/0   | 0/0   | 0/0 | 0/1                   | 0/0  | 0/0   | 0/0   | 0/0    |
| Totals     | 2/0                              | 3/0 | 0/2 | 3/3  | 1/0  | 3/1   | 0/1    | 1/0   | 5/3   | 1/1 | 1/0                   | 1/0  | 2/0   | 1/0   | 7/2    |

\*Results reported as Pass/Fail (e.g., "3/1" = 3 individuals passed; 1 failed).

## CONTINUING EDUCATION AUDIT RESULTS FOR 2010-2012

The Board recently completed its fourth random audit of continuing education documentation. The Board extends a note of appreciation to all licensees who supplied documentation in a prompt manner in response to the notice of audit. To assess trends in audit data, the Board is publishing results from the past three biennial renewal audits in the graph below:



A significant improvement in compliance occurred between the 2006-2008 biennium, and the 2008-2010 biennium, with an essentially unchanged pattern for the most recent two renewal cycles. For the 2008-2010 biennial renewal cycle, 159 randomly selected licenses were audited and out of this number, 10% supplied CE documentation that was unacceptable. For the latest 2010-2012 biennial renewal cycle, 156 randomly selected licenses were audited, and out of this number, 10.25% supplied CE documentation that was unacceptable. Audited licensees who fail to meet the CE requirements are subject to having Board action taken against their licenses.

The most common issues with unacceptable documentation submitted were an insufficient number of total Category A hours and an insufficient number of Category A hours in ethical and/or legal issues within the professional practice of psychology.

It is important to note that Board Rule .2104 states that the three hour ethical and/or legal requirement must be met through completion of Category A activities, not Category B. A licensee should always double check to ensure that any continuing education activity he/she thinks is eligible for the ethical and legal requirement meets all of the Category A requirements. Several audited individuals submitted an ethical and legal CE activity that did not meet all Category A requirements and, as a result, were not in compliance with the continuing education requirements. Additional ethical or legal hours may be obtained in Category B activities, but licensees must always have a minimum of three hours of ethical and legal issues CE meeting Category A requirements.

While there is no requirement that the title of an ethical and/or legal continuing education activity contain the words "ethical and legal", if it is unclear from the activity's title whether or not the program covered ethical and/or legal issues, a licensee must maintain and submit additional information to document such. The same is true of conferences, such that if a licensee submits a certificate for a 12-hour conference, during which he/she completed 3 hours of ethical and/or legal continuing education, documentation must be submitted from the sponsor of the sessions attended and the number of contact hours awarded for each session.

Another common CE problem is that many individuals do not submit certificates for Category A activities. A certificate is one of the essential requirements under rule for Category A CE credit. Transcripts, course records, program agendas, credit checklists or other forms may not be substituted in place of a certificate for Category A activities. Certain CE records or transcripts indicate on the form that the record is offered as a convenience for the participant and is not intended for submission to a certification or licensure board. A certificate is provided upon completion of an activity, while many other of the documents mentioned above are provided prior to, or distributed during a program. That is one reason why the Board requires that a certificate be provided, i.e., in order to document that a licensee has attended and successfully completed the entire continuing education activity. Without an official certificate, a CE activity will not be recognized by the Board as a Category A activity.

If a certificate is lost or misplaced, a licensee should contact the sponsor of the activity for a duplicate certificate rather than submitting other information in lieu of a certificate. Most Category A CE-approved sponsors will provide duplicate certificates upon request.

It should be noted that any certificate for a Category A activity should be from an approved Category A sponsor. If two organizations co-sponsor an event and one is not an approved sponsor, then the Board will only accept a certificate from the approved sponsor verifying the hours completed. Licensees must ensure that they have completed the proper paper work to receive a certificate from an approved Category A sponsor if they wish to receive Category A credit from the Board for an activity.

While a certificate is required for a Category A activity, this is not the only requirement. Many audited licensees seem confused or are mistaken about the requirements for Category A CE. Many of the audited individuals who were not in compliance had an insufficient number of total Category A hours and, therefore, did not meet the required nine hour minimum. In order to determine if an activity meets the requirements for Category A CE credit, carefully review the checklist listed in the sidebar on the next page. If you can check "yes" for each item on the list,

*continued on Page 5*





continued from Page 4

this will help you to confirm whether or not 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.

If you have any questions about the continuing education requirements, please do not hesitate to contact the Board office or visit the "Continuing Education" section on the Board's website. The online CE section contains the full text of the rule, a CE Quick Reference Guide, Frequently Asked Questions, and the CE Attestation Form. Additionally, there are links to other sites, including the APA and AHEC main continuing education sites, and links to APA-approved sponsor pages.

## LEGAL PROCEEDINGS

*During the period of time from June 1, 2011, through October 31, 2011, the Board reviewed and closed 18 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. Further, it issued remedial action in one case and took the following action:*

**Denise Dulken, M.A.** – CONSENT ORDER was approved on July 13, 2011. Respondent admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(5), (a)(7) & (a)(22) of the North Carolina Psychology Practice Act, and 21 N.C.A.C. 54 .2104(d), (f) & (m) of the North Carolina Psychology Board rules. Respondent's license is REPRIMANDED. She must successfully complete tutorials, submit proper documentation establishing that she has completed all of the required continuing education hours along with her renewal application for the next two renewal cycles, and remit \$300.00 in costs.

**Christopher L. Edwards, Ph.D.** – CONSENT ORDER was approved on July 13, 2011. Respondent agrees that the described conduct constitutes violation 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(d), (f), (g) & (m) of the North Carolina Psychology Board rules. Respondent's license is REPRIMANDED. He must successfully complete tutorials, complete twice the amount of the required Category A continuing education hours and submit proper documentation establishing that he has completed all of the hours along with his renewal application for the next two renewal cycles, and remit \$300.00 in costs.

**Andrew A. Proffer, Ph.D.** – CONSENT ORDER was approved on September 22, 2011. It is stipulated by Respondent and the Board that the Board finds that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(10), (a)(18), & (a)(20) of the North Carolina Psychology Practice Act, and Standards 3.04, 3.05(a), 3.08, 6.01 and 10.08(a) of the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association 2002). Respondent's license is REVOKED effective November 15, 2011, and he shall remit \$300.00 in costs.

### Overall CE Requirements

18 Hours Every Two Years

Only CE taken between  
October 1, 2010–October 1, 2012  
will be accepted for the upcoming  
licensure renewal in 2012.

### Category A Requirements

9 Hours Minimum Required

Three hours from Category A must cover ethical and/or 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.

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

2. Does the program specifically identify psychologists in the target audience?

3. Are contact hours specified by the sponsor?

4. 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?

5. Does the program provide a certificate upon completion?

## BOARD NEWS



It is with sadness that the Board says goodbye to former Board Chair Kristine M. Herfkens, Ph.D., ABPP-CN, (pictured left) and LPA member Jane H. Kelman, M.A. (pictured right). Over the years, the Board has been fortunate to benefit from the experience and expertise of many capable and dedicated individuals who have been appointed to serve on the Board. Dr. Herfkens and Ms. Kelman are two such members, whose knowledge and practice have helped to ensure that the goals of the Board have been successfully carried out. Appointed in

2008, both Dr. Herfkens and Ms. Kelman have served on various Board committees and have never failed to go to the extra mile in their work as Board members. Their commitment to the Board has been greatly appreciated, and they both will be greatly missed.



Robert Hill, Ph.D and Jeffery Lorence, M.A. are the two newest members appointed to the Board to fill the vacancies left by Dr. Herfkens and Ms. Kelman. The Board looks forward to the fresh perspectives that its newest members bring. More information about these members will be forthcoming in the next issue of psychNEWS. In other news, on September 21, 2011, Dr. Jane Perrin was appointed to serve as Board Chair and J. Anthony Powell, M.A., was appointed to serve as Vice Chair.

## FREQUENTLY ASKED QUESTIONS

### What types of actions can be taken by the Board against a licensee if he or she has been judged to have been engaged in prohibited activities?

If an individual engages in any prohibited acts, which are set forth in N.C. Gen. Stat. § 90-270.15 (a) and in the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 2002), the Board is authorized to take the following actions, as set forth in N.C. Gen. Stat. § 90-270.15(a) and (b):

The Board may deny, suspend, or revoke licensure and certification, and may discipline, place on probation, limit practice, and require examination, remediation, and rehabilitation, or any combination thereof, all as provided for in subsection (b) below.

(b) Upon proof that an applicant or licensee under this Article has engaged in any of the prohibited actions specified in subsection (a) of N.C. Gen. Stat. § 90-270.15, the Board may, in lieu of denial, suspension, or revocation, issue a formal reprimand or formally censure the applicant or licensee, may place the applicant or licensee upon probation with such appropriate conditions upon the continued practice as the Board may deem advisable, may require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee, may require supervision for the services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee, may limit or circumscribe the practice of psychology provided by the applicant or licensee with respect to the extent, nature, or location of the services provided, as the Board deems advisable, or may discipline and impose any appropriate combination of the foregoing. In addition, the Board may impose such conditions of probation or restrictions upon continued practice at the conclusion of a period of suspension or as requirements for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to the discipline, supervision, probation, remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

### Are Board actions reported to any national or other data bank?

Adverse actions are reported to the United States Department of Health and Human Services National Practitioner Healthcare Integrity and Protection Data Bank (HIPDB) and to the Association of State and Provincial Psychology Boards Disciplinary Data System (ASPPB DDS). Reportable actions include, but are not limited to:

- Formal or official actions, such as the revocation, suspension, or probation of a license, or a reprimand or censure.
- Any other loss of, or the loss of the right to apply for or renew, a license, whether by operation of law, voluntary surrender (when made after a notification of investigation or a formal official request for surrender, in exchange to cease an investigation or to not conduct an investigation, or in lieu of a disciplinary action), or non-renewal (excluding non-renewals due to nonpayment of fees).
- Any other negative action or finding that is publicly available information.

Remedial actions (e.g., the requirement to successfully complete tutorials) are considered "Board action" and are public record. However, while available upon request, they are not reported to the HIPDB or ASPPB DDS.

### What recourse do I have if I receive a statement of charges alleging that I have committed ethical and/or legal violations which might result in Board action?

In such a circumstance, you have due process rights in accordance with the provisions of Chapter 150B of the North Carolina General Statutes, which include the right to contest the alleged violations through a hearing before the Board.

**UPCOMING BOARD MEETINGS**

January 25-27, 2012

April 25-27, 2012



**THE NORTH CAROLINA PSYCHOLOGY BOARD**

### MEMBERS

Jane E. Perrin, Ph.D., *Licensed Psychologist, Chair*  
J. Anthony Powell, M.A., *Licensed Psychological Associate, Vice Chair*  
John T. Esse, Ph.D., *Licensed Psychologist*  
Robert W. Hill, Ph.D., *Licensed Psychologist*  
Sarah Lynn-Sells Lambert, *Public Member*  
Jeffrey M. Lorence, M.A., *Licensed Psychological Associate*  
Maria M. Velazquez-Constas, M.Ed., *Public Member*

### STAFF

Martha N. Storie, *Executive Director*  
Susan C. Batts, M.A., *Staff Psychologist*  
Debbie Hartley, *Administrative Officer*  
Wilma Ragan, *Office Assistant*  
Rebecca Osborne, *Communication Specialist*  
Sondra C. Panico, *Assistant Attorney General and Counsel to the Board*

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