



Independence of the North Carolina Psychology Board

a message from the chair

Robert W. Hill, Ph.D., ABPP

The North Carolina Psychology Board and members of the North Carolina Psychological Association (NCPA) Executive Committee have been discussing concerns over some of the North Carolina General Assembly's proposals suggesting the elimination or consolidation of licensure boards in the state, including mental health boards. These proposals appear to be motivated by an interest in reducing regulation of the free marketplace, reducing obstacles to employment, and saving money. The North Carolina Psychology Board has also been in discussions, facilitated by the Association of State and Provincial Psychology Boards (ASPPB) and the American Psychological Association (APA), with psychology board members and administrators across the country who have faced similar consolidation efforts.

The North Carolina Psychology Board understands the General Assembly's interest in creating efficiencies in state government. However, such efforts in other states to reduce the number of licensure boards in order to produce cost savings or simplify the process for consumers of professional services have shown that neither of these goals is likely to be attained by the consolidation of mental health boards.

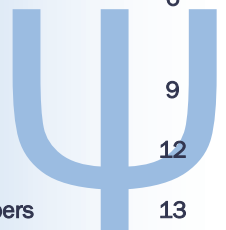
Rather, the most likely result is only a weakening of the consumer protection afforded by an independent Psychology Board along with increased difficulty to regulate very distinct professions and no real cost savings. These efforts also have typically resulted in both little savings to the taxpayers and less effective regulation of the professions involved, since:

- professional regulatory boards in North Carolina and most states are entirely self-supporting from fees collected from licensees, so there are no real savings to state government from moving to a combined mental health board;
- combined mental health boards are confusing to the consumers of mental health services who already have great difficulty understanding the differences between psychologists and other mental health practitioners;
- not only is public protection threatened, but the inefficiencies of decision-making consolidated through one entity are frustrating to complainants and create an unnecessary layer of bureaucratic oversight depriving the professionals appointed to the boards from applying their much needed expertise;
- the mental health professions all evolve from different models of education and training, different theories of behavior and treatment practices and separate ethical codes describing appropriate professional conduct, all of which present huge challenges to those seeking to regulate the profession and protect the public from incompetent or impaired professionals; and

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- Psychologists: (i) are the only mental health professional trained to perform cognitive, intellectual, personality and diagnostic assessment using measures and techniques that require specialized education and training; (ii) are required to obtain research training in order to utilize an evidence based perspective in assessment and treatment interventions; and (iii) are uniquely trained to provide forensic evaluations, providing data to inform legal proceedings, that other mental health professionals lack the specialized skills to provide. These skill sets, and others, are unique to psychologists, and thus could not be competently regulated by other mental health professionals without this expertise.

In fact, two states (Colorado and New Hampshire) that have “experimented” with consolidated mental health boards after having separate psychology licensing boards for decades have both reversed this decision and returned to having separate psychology licensing boards. One of the main reasons for restoring the psychology licensing board as a separate entity in New Hampshire was a series of high profile discipline cases that were mishandled by the consolidated mental health board that garnered negative press coverage about the inadequate state of professional regulation of mental health professions in that state.

When the North Carolina Psychology Board was established by the General Assembly in 1967, the practice of psychology was declared to affect the public health, safety, and welfare of the citizens of North Carolina and was to be regulated to protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology. The North Carolina Psychology Board has successfully accomplished the mission as charged by the General Assembly without cost to taxpayers.

The North Carolina Psychology Board decided to bring its concerns regarding the threats of consolidation of mental health boards to the attention of psychologists in the state who could perhaps contribute by educating state legislators and the public about the Board’s critical mission of protecting the citizens of our State and that neither the consumers of psychological services nor professional psychologists would benefit from a consolidation of mental health boards. If you have any questions about this issue, please feel free to contact the Board office.

Duty to Warn in North Carolina **Sondra Panico, Assistant Attorney General**

The North Carolina Psychology Board, on occasion, receives inquiries about a psychologist’s obligation to warn others about the potential for harm by his/her client/patient.

The purpose of this article is to discuss what is required of a psychologist to protect others from harm, otherwise known as the “duty to warn.” In North Carolina, there is no “duty to warn” per se.

In the seminal case, *Tarasoff v. Regents of University of California*, 17 Cal. 3d 425, 551 P. 2d. 334, 131 Cal. Rptr. 14 (Cal. 1976), the California Supreme Court held that once a therapist determines, or under applicable professional standards reasonably should have determined, that a patient poses a serious danger of violence to others, he/she bears a duty to exercise reasonable care to protect the foreseeable victim of that danger.

In North Carolina, the duty to warn foreseeable victims of serious danger from a patient, as held in *Tarasoff*, is not the law. As a result, a psychologist is not required to warn potential victims of danger by his/her patient, however, there is no law that specifically prohibits a psychologist from doing so.

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In *Gregory v. Kilbride*, 150 NC App 601, 565 SE 2d 685, (2002), the North Carolina Court of Appeals held that a psychiatrist does not have a duty to warn third persons. In *Gregory*, the patient made numerous threats to kill his wife, but Dr. Kilbride determined that he did not meet the requirements for involuntary commitment. Once the patient was released from the hospital he shot and killed both his wife and himself. The plaintiffs argued that Dr. Kilbride breached a legal duty to warn the wife of her husband's dangerous condition. The Court of Appeals held that, unlike the court in *Tarasoff*, North Carolina does not recognize a psychiatrist's duty to warn third persons.



However, in *Davis v. N.C Department of Human Resources*, 121 NC App 105, 112, 465 S.E. 2d 2, 12 (1995), the North Carolina Court of Appeals recognized an exception to the general rule that there is no duty to warn, in the case when a person has been involuntarily committed for a mental illness, in which there is a duty placed upon the institution to exercise control over the patient with such reasonable care as to prevent harm to others at the hands of the patient.

As a result, except in the case of involuntary commitment, since the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 2002), Chapter 122C of the North Carolina General Statutes, and present North Carolina case law, do not mandate a duty to warn, but also do not prohibit such a duty to warn, it is left up to the psychologist to determine whether he/she should warn third persons and, if so, how to do so. The psychologist will need to balance confidentiality requirements with the protection of potential victims of harm.

Ethical Responsibilities for Psychologists

Even though case law does not require a duty to warn others of potential harm from a patient, the *Ethical Principles of Psychologists* place an ethical requirement on psychologists to protect others from harm. The North Carolina Psychology Practice Act incorporates the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 2002) by reference.

Specifically, Ethical Standard 4.05 of the *Ethical Principles of Psychologists and Code of Conduct* states:

- (a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient, or another legally authorized person on behalf of the client/patient unless prohibited by law.
- (b) Psychologists disclose confidential information **without the consent** of the individual only as mandated by law, or *where permitted by law* for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) *protect the client/patient, psychologist, or others from harm*; or (4) obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

Therefore, when disclosure is mandated by law, then revealing confidential information is required, such as in the case of child abuse, neglect, or elder abuse or neglect, pursuant to NC Gen. Stat. §§ 7B-300 and 108A-99. Further, N.C. Gen. Stat § 8-53.3, states that the psychologist-patient privilege is not grounds for failing to report suspected child abuse or neglect or for failure to report a disabled adult to the appropriate county department of social services.

When not mandated by law, Ethical Standard 4.05 states that if it is permitted by law, a psychologist discloses confidential to protect the client/patient, psychologist, or others from harm. As discussed below, it appears that such disclosures under certain circumstances are permitted by North Carolina law.

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Chapter 122 C of the North Carolina General Statutes:

If you are a psychologist working in a facility which meets the definition of “facility” under Chapter 122C-3, then, under N.C. Gen. Stat. §122C-3(14), as set forth below, and you are a “responsible professional,” and you may disclose confidential information to protect others from imminent danger, or if there is a likelihood of the commission of a felony or violent misdemeanor.

N.C. Gen. Stat. § 122C-55(d) states:

A responsible professional *may* disclose confidential information when in his/her opinion there is an imminent danger to the health or safety of the client or another individual or there is a likelihood of the commission of a felony or violent misdemeanor.

N.C. Gen. Stat. § 122C-3(32) defines “responsible professional” as:

an individual within a facility who is designated by the facility director to be responsible for the care, treatment, habilitation, or rehabilitation of a specific client and who is eligible to provide care, treatment, habilitation, or rehabilitation relative to the client's disability.

The definitions/obligations under Chapter 122C of the North Carolina General Statutes apply, if the psychologist is working in a facility that meets the definition of facility under Chapter 122C , as follows:

N.C. Gen. Stat. § 122C-3(14) defines “facility” as:

any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes:

- a. An "area facility," which is a facility that is operated by or under contract with the area authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county program. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area facility;
- b. A "licensable facility," which is a facility that provides services to individuals who are mentally ill, developmentally disabled, or substance abusers for one or more minors or for two or more adults. These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities;
- c. A "private facility," which is a facility that is either a licensable facility or a special unit of a general hospital or a part of either in which the specific service provided is not covered under the terms of a contract with an area authority;
- d. The psychiatric service of the University of North Carolina Hospitals at Chapel Hill;
- e. A "residential facility," which is a 24-hour facility that is not a hospital, including a group home;
- f. A "State facility," which is a facility that is operated by the Secretary of the Department of Health and Human Services;
- g. A "24-hour facility," which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Chapter; and
- h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers.

As a result, if a psychologist is employed in a facility that meets the definition of a facility under N.C. Gen. Stat. § 122C-3,

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which is a very broad and inclusive definition, and the psychologist is the responsible professional, then he/she may disclose confidential information under N.C. Gen. Stat. § 122C-55, if in his/her opinion, there is imminent danger to the health or safety of the client or another individual or there is a likelihood of the commission of a felony or violent misdemeanor. This statute may also apply to psychologists who are in sole or group private practice, given the broad definition of facility. This statute allows the psychologist to warn, but does not require it.

In addition, under N.C. Gen. Stat. § 122C-210: “No facility or any of its officials, staff, or employees, or any physician or other individual who is responsible for the custody, examination, management, supervision, treatment, or release of a client and who follows accepted professional judgment, practice, and standards is civilly liable, personally or otherwise, for actions arising from these responsibilities or for actions of the client. This immunity is in addition to any other legal immunity from liability to which these facilities or individuals may be entitled and applies to actions performed in connection with, or arising out of, the admission or commitment of any individual pursuant to this Article.”

Health Insurance Portability and Accountability Act (HIPAA)

Under HIPAA, **45 CFR 164.512**, a covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure: (i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

Proactive Steps a Psychologist may take:

1. Obtain informed consent. It is important to explain up front to a client when exceptions to confidentiality will be made. If you include in your informed consent situations when you may need to warn others of harm by the patient, then the patient is on notice about what will take place should this occur.
2. Develop a contingency plan with your patient, so the patient understands what will take place should this occur.
3. Have a plan for who to reach out to for supervision and/or consultation should the need arise.

Considerations when determining whether you should warn:

- Did the patient make the threat in your presence?
- Was the threat made against an identified individual?
- Do you believe the threat to be a serious threat of harm to another individual (for example, does the person have an identified plan, a means to act on such a plan, etc.)?
- Did you believe the threat to be the commission of a felony or violent misdemeanor?

It is important to carefully document any disclosure, how you disclosed (in person, letter, email, telephone, etc.) and to whom you disclosed (potential victim, potential victim's family, law enforcement, etc.), when you made the disclosure (date and time), and who made the disclosure (you or staff person).

The *Tarasoff* case is helpful in considering how to warn third persons and suggests that you warn the actual potential victim, or if you are unable to reach the potential victim, someone who can warn the potential victim. It further suggests that you only disclose the confidence when necessary to avert danger to others, and even then to do so discreetly and in a way that would preserve the privacy of the patient to the fullest extent possible consistent with preventing the threatened danger. See *Tarasoff*, 17 Cal. 3d at 441.

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. Nothing in this article is intended to serve as legal advice and you may wish to consult with an attorney for specific legal advice about any of the issues raised in this article.

Licensure Issues and the Practice of Behavior Analysis in North Carolina

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In North Carolina, pursuant to N.C. Gen. Stat. § 90-270.2(8), behavior analysis and behavior therapy have long been part of the definition of the practice of psychology. The Association of State and Provincial Psychology Boards (ASPPB) also includes behavior analysis and therapy in its definition of the practice of psychology in both its current Model Psychology Practice Act and its proposal for the next revision of the Act. Specifically, ASPPB's definition of the practice of psychology includes, but is not limited to "...counseling, consultation, psychoanalysis, psychotherapy, hypnosis, biofeedback and behavior analysis and therapy."

Evolution of Behavior Analysis

Behavior analysis is the scientific study of behavior. The term "behavior analysis" was coined by B. F. Skinner, who is generally considered the founder of the field. Skinner is perhaps the best known learning theorist of the twentieth century. Skinner followed in a tradition of American psychologists including Edward Thorndike, who described the *law of effect* in 1911, and Clark Hull, who inspired a wealth of animal learning research in the 1940s -1950s.

Skinner (1935) observed that there were two different models for learning or conditioning. Behavior was either controlled by antecedent, eliciting stimuli (respondent or *classical conditioning*, as first demonstrated by Ivan Pavlov), or by consequent stimuli (*operant conditioning*).

The term *Applied Behavior Analysis* (ABA) was defined in 1968 in the first issue of the *Journal of Applied Behavior Analysis* by Baer, Wolf and Risley. In summary, "*applied*" defines a subject matter that is important to people and society, "*behavior*" defines the reliable quantification of observable physical events, and "*analysis*" defines the ability to convincingly demonstrate the variables which control the behavior.

Since the 1960s, the field of behavior analysis has developed significant applications for the improvement of human behavior. Much of the early application was directed toward persons with developmental disabilities, a population chosen perhaps for both their obvious needs relating to learning, and the ability to structure their environment in controlled settings such as schools and institutions. Over time, great advances have been made in the field's ability both to enhance adaptive behavioral repertoires and to reduce significant, often life-threatening, maladaptive behaviors in this population. The last 50 years have seen significant contributions of ABA in other areas, including organizational management, education, health, addiction, behavioral medicine, brain injury rehabilitation, and sports psychology. Various programs in North Carolina have made significant contributions to the field of behavior analysis, including research in the areas of developmental disabilities (Murdoch and J. Iverson Riddle Developmental Centers), education (UNC-Charlotte), basic research in learning (UNC-Wilmington), and student education (East Carolina University and UNC-Wilmington).

Interest in the interventions derived from ABA for the treatment of autism spectrum disorders (ASD) has skyrocketed in the past 20 years. While treatments that derive from ABA are not the only effective interventions derived from research and funded by insurance coverage, they are clearly the most popular. Although the application of behavioral intervention principles to ASD is not new (Lovaas, 1987; McEachin, Lovaas, and Smith, 1993), its popularity has soared for at least two reasons. First, the number of individuals diagnosed with ASD has increased dramatically since the 1980s. A sample of children in North Carolina revealed autism occurred in 1:58 eight-year-old children (1.7%). Using census data, we can estimate that there are roughly 39,000 children (under age 18) with autism in North Carolina. Second, intensive treatments using behavior analytic

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principles have been extensively researched, and have documented success in treating the behavioral excesses and deficits of individuals with ASD.

Expansion of Insurance Coverage

Insurance coverage for behavioral treatment for children with ASD is expanding. Coverage in North Carolina began with TRI-CARE providing benefits to military families. The State Employees Health Plan followed when it began to cover treatment in 2015. In 2016, the North Carolina legislature passed SB 676 requiring health insurance companies to cover treatment for children. Now, in 2017, the North Carolina Department of Health and Human Services is developing a proposed benefit for Medicaid recipients.

Although many states have adopted legislation mandating health insurance companies to provide coverage for behavioral treatment for children with ASD, there has been limited progress for adults. Even though there are tens of thousands of adults who might also benefit from ABA based treatment, recent insurance mandates in North Carolina cover only children.

Regulation of Behavior Analysis

As behavior analysis and behavior therapy are included in the definition of the practice of psychology, the specific tasks of treatment design, planning and evaluation for the modification of human behavior by the application of psychological principles (in this specific example, ABA) shall be done only by individuals licensed by the North Carolina Psychology Board or other licensed individuals in North Carolina, so long as it is within their scope of practice. Board Certified Behavior Analysts (BCBAs) who practice behavior analysis are required to be in compliance with the North Carolina Psychology Practice Act, or be licensed by another regulatory board in North Carolina that includes such activity within its scope of practice, in order to work legally in this state.

However, under the North Carolina Psychology Board's ancillary services rules (see 21 NCAC 54 .2800), non-licensed persons may assist psychologists in the delivery of psychological services. As the provision of ancillary services can involve a degree of technical skills, training, and judgment, non-licensed individuals providing ancillary services must be trained and supervised by a Licensed Psychologist or Licensed Psychological Associate. In addition, non-licensed individuals providing ancillary services may not supervise other persons in the provision of ancillary services. It is important, therefore, that psychologists who employ or supervise BCBAs to provide ancillary services must carefully define the BCBA's duties in compliance with 21 NCAC 54 .2800.

Persons who fill a paraprofessional role in implementing an intervention plan strictly as designed by a psychologist are likely not providing ancillary services, and do not need to be supervised by a psychologist. Reference to this distinction is found in 21 NCAC 54 .2006(c) which describes the "actual implementation of such interventions" (behavior intervention programs) "that were designed for others to implement that may or may not constitute ancillary services." There is no prohibition against ancillary service providers supervising direct care (that is, paraprofessional) providers who are strictly following a plan with minimal technical skills and independent judgment, and who are therefore not providing ancillary services that would require training and supervision by a psychologist.

It is a common misstatement to state that a non-licensed person who is following a treatment plan developed by a licensed professional is providing "behavior analysis" or "ABA." It is more accurate to explain that the paraprofessional is following an ABA plan or, in reimbursement terms, providing "adaptive behavior treatment" or "behavioral health treatment." The distinction is between designing the treatment versus implementing it.

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The Road Ahead

As previously discussed, with the recent mandate for insurance companies to cover behavioral health care/adaptive behavior treatment services for children with autism, and the possible expansion of this service to Medicaid recipients, the demand for services will continue to increase. One solution to address the increased demand would be a separate licensure for behavior analysts. The latest data (2015) from the Association of Professional Behavior Analysts indicates that 24 states now have licensure for behavior analysts. In 2016, the North Carolina Legislature considered a bill to establish licensure for behavior analysts, but this bill was not passed. It is expected that legislation regarding BCBAs will be considered during the current legislative session. Should North Carolina adopt licensure for behavior analysts in the future, persons licensed under that act could practice within the scope of their specialty, while Licensed Psychologists could continue to practice all forms of psychology for which they have received education and training, as guided by the APA Ethical Principles.

In the interim, psychologists who supervise persons providing ancillary services (whether or not the person is a BCBA) should carefully consider the North Carolina Psychology Practice Act rules for ancillary services (21 NCAC 54 .2800) to assure that the persons they supervise are not engaged in the illegal practice of psychology. Additionally, psychologists may become aware of persons who appear to be practicing behavior analysis illegally. You may wish to make the person aware that this is a prohibited act according to the licensing law (NC Gen. Stat. § 90-270.16) that may constitute a Class 2 misdemeanor (NC Gen. Stat. § 90-270.17). Also, psychologists should be aware that aiding or abetting the unlawful practice of psychology by any person not licensed by the board is a violation of the Code of Conduct (NC Gen. Stat. § 90-270.15 (a)(8)).

References:

- Baer, D.M., Wolf, M.M., & Risley T.R. (1968). Some current dimensions of Applied Behavior Analysis. *Journal of Applied Behavior Analysis*, 1, 91-97.
- Lovaas, O.I. (1987). Behavioral treatment and normal educational and intellectual functioning in young autistic children. *Journal of Consulting and Clinical Psychology*, 55, 3-9.
- McEachin, J.J., Lovaas, O.I., & Smith, T. (1993). Long-term outcome for children with autism who received early intensive behavioral treatment. *American Journal of Mental Retardation*, 97, 359-72.
- Skinner, B.F. (1935). Two types of conditioned reflex and a pseudo-type. *Journal of Genetic Psychology*, 14, 263-278.

Author's note:

I wish to thank Drs. Vickie Shea and Michael Walker for their review and helpful comments on this article.

Continuing Education Audit

This summer the Board will conduct its eighth random audit of licensees for continuing education documentation. If audited by the Board, a licensee has 30 days to submit the required continuing education documentation to the Board. During the last random audit the Board found that 94.6% of audited licenses supplied CE documentation that was acceptable under Board rule.

Those individuals who were audited and failed to meet the CE requirements received Board action. The most common issues with unacceptable documentation submitted during continuing education audits 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. These two issues have been problematic every renewal cycle since CE became a requirement for license renewal.

In order to determine if an activity meets the requirements for Category A CE credit, please click [here](#) for a list of the Category A requirements or review page 10 of the newsletter. 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.

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

Legal Proceedings

During the period of time from July 1, 2016 through April 30, 2017, the Board reviewed and closed 25 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 one case involving a non-psychologist. Further, it issued remedial action in two cases and took the following action: [click on the highlighted names below to see copy of the Board Action].

Aytch, Donald, Ph.D. - FINAL DECISION suspending Dr. Aytch's license was approved and signed on August 18, 2016. Dr. Aytch's conduct constitutes a violation of N.C. Gen. Stat. § 90-270.15(a)(22). Dr. Aytch's license is hereby SUSPENDED immediately for an indefinite period of time. During the suspension of Dr. Aytch's license, Dr. Aytch shall complete two fitness for practice evaluations by two Board designated evaluators. Once Dr. Aytch has completed both fitness for practice evaluations, if the Board determines that Dr. Aytch is fit to practice based upon the fitness for practice evaluations, he may resume practice under PROBATION for a period of at least one year. Should the Board determine that Dr. Aytch is not fit to practice based upon the fitness for practice evaluation, his license will remain suspended. Following the lifting of the suspension of Dr. Aytch's license, he shall be monitored by a practice monitor for a period of one year consisting of 2,000 hours in the practice of psychology, whichever takes longer to occur. Dr. Aytch must submit \$300.00 in costs.

Donnelly, Jacqueline, Ph.D. - CONSENT ORDER was approved and signed on February 10, 2017. Dr. Donnelly acknowledges that the described conduct, if proven at a hearing, would constitute violations of N.C. Gen. Stat. § 90-270.15(a)(10), (a)(11), (a)(12), (a)(16), (a)(17) & (a)(19) of the North Carolina Psychology Practice Act, and Standards 2.06, 3.05(a) & 6.01 of the Ethical Principles of Psychologists and Code of Conduct. Dr. Donnelly's license is hereby REVOKED. By no later than February 17, 2017, Dr. Donnelly shall terminate psychological services to all of her clients and shall make provisions for the appropriate transition of her clients to another therapist, as appropriate. By no later than February 17, 2017, Dr. Donnelly shall also cease to engage in any other activities that meet the definition of the practice of psychology in N.C. Gen. Stat. § 90-270.2(8). Dr. Donnelly must submit \$300.00 in costs.

Edwards, Christopher, Ph.D. - CONSENT ORDER was approved and signed on August 18, 2016. Dr. Edwards consents to the fact that the described conduct violates N.C. Gen. Stat. §§ 90-270.15(a)(10), (a)(14), (a)(17) of the North Carolina Psychology Practice Act and Standards 6.01 and 9.02 of the Ethical Principles of Psychologist and Code of Conduct. Dr. Edwards is hereby CENSURED. Dr. Edwards shall successfully complete an independent study and supervision. Dr. Edwards must submit \$300.00 in costs.

Keesler, Thomas Y., Ph.D. - ORDER OF SUMMARY SUSPENSION was approved and signed on November 3, 2016. The suspension is effective on November 15, 2016. Dr. Keesler's conduct, if proven, violates N.C. Gen. Stat. §§ 90-270.15(a)(10), (a)(11), and (a)(20) of the North Carolina Psychology Practice Act, and Standards 3.04, 3.05, 3.08, 10.05, & 10.08 of the Ethical Principles of Psychologists and Code of Conduct. Based upon information about the patient's complaint, the patient's statements, and other corroborating information, the Board found, pursuant to N.C. Gen. Stat. § 150B-3, that the public safety and welfare required that the Board take emergency action in the form of a summary suspension of Dr. Keesler's license to practice psychology. The suspension shall remain in effect until the Board issues a Final Decision in this matter or until the parties enter into a Consent Order that is a final determination in this matter.

Keesler, Thomas Y., Ph.D. - CONSENT ORDER was approved and signed on February 10, 2017. Dr. Keesler admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(10), (a)(11), and (a)(20) of the North Carolina Psychology Practice Act, and Standards 3.04, 3.05, 3.08, 10.05, & 10.08 of the Ethical Principles of Psychologists and Code of Conduct, including the absolute prohibition on engaging in sexual intimacies with a patient and a former patient (within two

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years of termination). Dr. Keesler's license is hereby REVOKED. Dr. Keesler is assessed \$300.00 in costs.

Miller, Trisha, PhD. – CONSENT ORDER signed and approved on November 3, 2016. Dr. Miller's license is REVOKED, effective December 17, 2016. Dr. Miller engaged in a romantic relationship with a former patient. Dr. Miller admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(10) & (a)(11) of the North Carolina Psychology Practice Act, and Standards 3.04 & 10.08(a) of the Ethical Principles of Psychologists and Code of Conduct. Dr. Miller must submit \$300.00 in costs.

Mittan, Robert J., Ph.D. – FINAL ORDER was approved and signed on February 10, 2017. Dr. Mittan's conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(7) and (a)(22) of the North Carolina Psychology Practice Act and 21 NCAC 54 .2104 (d), (f), (i), and (m) of the North Carolina Psychology Board rules. Dr. Mittan's license to practice psychology is hereby SUSPENDED until Dr. Mittan provides the Board with documentation that he has completed 3 hours of Category A continuing education, pursuant to Rule 21 NCAC 54 .2104. In addition, Dr. Mittan shall complete a minimum of 18 additional continuing education hours, as specified in 21 NCAC 54 .2104, in order to renew his license. Dr. Mittan must submit proper documentation establishing that he has completed all of the required continuing education hours, in compliance with 21 NCAC 54 .2104, with his application for the 2016-2018 biennial licensure renewal period. Dr. Mittan must submit \$300.00 in costs.

Speziale, Paul, M.A. – CONSENT ORDER signed and approved on January 23, 2017. Mr. Speziale acknowledges that the described conduct would, if proven at a hearing, constitute violations of the North Carolina Psychology Practice Act, N.C. Gen. Stat. §§ 90-270.15(a)(10), (11), and (21), and Standards 3.02, 3.03, 3.04 and 3.05 of The Ethical Principles of Psychologists and Code of Conduct. Mr. Speziale's license is hereby SUSPENDED for a period of six months beginning on February 2, 2017. During the suspension of Mr. Speziale's license, he shall complete 12 hours of continuing education in the area of appropriate boundaries with patients. During the suspension of Mr. Speziale's license, he shall receive therapy on a weekly basis and his therapist shall provide reports to the Board on a monthly basis about Mr. Speziale's general progress and response to therapy with specific comments about how Mr. Speziale is dealing with the alleged ethical violations that took place. No earlier than three months after Mr. Speziale's license is suspended, Mr. Speziale shall begin the process to complete a fitness for practice evaluation by a Board designated evaluator. If, following the six month suspension and the completion of the fitness for practice evaluation, the Board determines that Mr. Speziale is fit to practice, then once Mr. Speziale receives written Board approval, he may resume practice under the conditions. Following the lifting of the suspension of Mr. Speziale's license, Mr. Speziale shall limit his private practice to children and young adults under the age of 20, commensurate with his primary experience as a school psychologist. Mr. Speziale also shall successfully complete a minimum of six hours of tutorials. Mr. Speziale is assessed \$300.00 in costs.

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

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.



Are LPAs permitted to form professional corporations or professional limited liability companies?

The Board office often receives questions with regard to whether Licensed Psychological Associates (LPAs) are permitted to form professional corporations or professional limited liability companies.

Under the NC Professional Corporations Act (NC Gen. Stat. § 55B-4), LPAs, as licensees of the Board (as defined by N.C. Gen. Stat § 55B-2(2)), may form professional corporations. This also applies to professional limited liability companies under N.C. Gen. Stat. § 57D-2-02. The professional corporation or professional limited liability company must comply with provisions set forth in N.C. Gen. Stat § 55B-4. The licensee who is attempting to form the professional corporation or professional limited liability company shall obtain a certificate of registration from the Board, as set forth in N.C. Gen. Stat. § 55B-10.

However, under N.C. Gen. Stat § 55B-14(c), LPAs are not permitted to form professional corporations or professional limited liability companies with individuals licensed by other licensing boards. LPAs may only form professional corporations or professional limited liability companies with other LPAs or with Licensed Psychologists.

The Board cannot advise on the legal or tax issues involved with the formation of professional corporations or professional limited liability companies. A licensee interested in forming a professional corporation or professional limited liability company should consider contacting an attorney and/or accountant regarding those issues.

If a licensee has additional questions regarding the process to form a professional corporation or professional limited liability company, you may contact the Board office at (828) 262-2258 or info@ncpsychologyboard.org.

EXAM RESULTS

Performance of Graduates of North Carolina Universities on the Examination for Professional Practice In Psychology from 07/01/16-04/28/17.

	Program	ASU	ECU	FSU	NCCU	NCSU	UNC-C	UNC-CH	UNC-G	UNC-W	WCU	
{ master's level }	Clinical	3 / 0	0 / 0	0 / 0	2 / 2	0 / 0	2 / 0	1 / 0	8 / 0	1 / 1	1 / 0	EXAM RESULTS FOR LICENSED PSYCHOLOGICAL ASSOCIATES
	Counseling	0 / 0	0 / 0	1 / 0	0 / 0	0 / 0	0 / 0	1 / 0	0 / 0	0 / 0	0 / 0	
	School	1 / 2	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 1	
	Other	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	
	Totals	4 / 2	0 / 0	1 / 0	2 / 2	0 / 0	2 / 0	2 / 0	8 / 0	1 / 1	1 / 1	

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

{ doctoral level }

	Program	Duke	ECU	NCSU	UNC-C	UNC-G	UNC-CH	
{ doctoral level }	Clinical	2 / 0	0 / 0	0 / 0	2 / 0	0 / 0	4 / 0	EXAM RESULTS FOR LICENSED PSYCHOLOGISTS
	Counseling	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	
	School	0 / 0	0 / 0	1 / 0	0 / 0	0 / 0	1 / 0	
	Other	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	
	Totals	2 / 0	0 / 0	1 / 0	2 / 0	0 / 0	5 / 0	

ANNUAL REPORT AND SUPPLEMENTAL INFORMATION FROM 07/01/15-06/30/16

NUMBER OF:

Individuals who applied to the Board for Examination	236
Individuals who were refused examination	11
Individuals who took the state examination	229
Individuals who took the national examination	145
Individuals who were issued a license	234
Psychological Associate	46
Licensed Psychologist	151
Licensed Psychologist (Provisional)	37
Application forms and state laws mailed (forms are available online)	0
Visits to the Board's website (www.ncpsychologyboard.org)	24,222
Psychological Associate	1,261
Licensed Psychologist	2,926
Licensed Psychologist (Provisional)	63
Corporations and PLLCs registered	60
Official complaints received involving licensed and unlicensed activities	51
Complaints resolved	51
Complaints pending as of 06/30/2016	36
Investigations, including complaints, pending as of 06/30/2016	38
Disciplinary actions taken against licensees, or other actions taken against non-licensees, including injunctive relief (5 disciplinary; 1 remedial; 0 injunction)	6
Licenses suspended or revoked	4
Licenses terminated for any reason other than failure to pay the required renewal fee	3
Licenses terminated for failure to pay the renewal fee	NA

DURING THE FISCAL 2015-2016 YEAR, THE BOARD:

- ✓ reviewed applications and licensed qualified individuals
- ✓ reviewed and resolved complaints regarding ethical and legal issues
- ✓ provided formal training for a new member
- ✓ sought fee increases to enable the Board to fulfill its statutory mandate to protect the public from incompetent, unethical, and unprofessional practice
- ✓ developed system to submit complaints online through the Board's website
- ✓ continued development of an online state exam
- ✓ continued development of an online license renewal system
- ✓ continued development of online license application system
- ✓ launched a new Board website
- ✓ continued to upgrade IT systems and equipment

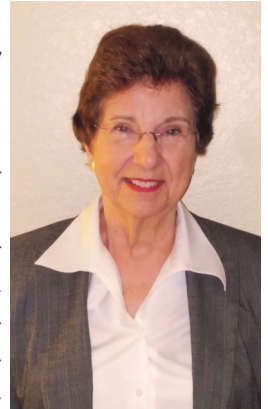
OBJECTIVES FOR THE BOARD IN THE 2016-17 FISCAL YEAR INCLUDE:

- ✓ address budgetary and long-range planning issues
- ✓ adopt, amend, and repeal the Board's rules as necessary
- ✓ implement criminal history record check
- ✓ continue IT systems and equipment upgrade
- ✓ implement online license renewal system
- ✓ implement online license application system
- ✓ Implement online state exam
- ✓ continue to seek fee increases to enable the Board to fulfill its statutory mandate to protect the public from incompetent, unethical, and unprofessional practice

WELCOME

The Newest Board and Staff Members

Helen Brantley, Ph.D. was appointed to the North Carolina Psychology Board by Governor Pat McCrory on December 21, 2015. Helen received her undergraduate and graduate degrees from Duke University and completed a postdoctoral fellowship at the University of North Carolina, Department of Psychiatry. In the UNC Department of Psychiatry, Helen served as coordinator for child psychiatry research, as a psychologist on a diagnostic team for children, and then as director (or co-director) of the Forensic Psychiatry Service for 15 years. Helen is a member of the Psychology and Law Committee of the North Carolina Psychological Association and belongs to the American Psychological Association and the Association of Family and Conciliation Courts. She also chaired the American Psychological Association Task Force, which developed Guidelines for the Practice of Parenting Coordination. In addition, she has maintained a clinical and forensic private practice for many years. Helen is pleased to be selected as a member of the North Carolina Psychology Board and looks forward to using her experience in this new capacity.



Joseph Pasquarell was appointed by Governor Pat McCrory as a Public Member of the Psychology Board on March 8, 2016. A native of New York, Joe worked for the State of New York in the field of Mental Health - Developmental Disabilities for 13 years. Joe's responsibilities included supervision of staff, developing and monitoring plans of care for adults and children with developmental disabilities, budget maintenance and ensuring services followed State mandates.

Joe moved to North Carolina in 1993 and he began working for Southeastern Mental Health in the areas of developmental disabilities and substance abuse. Joe was employed as a case manager and then became a supervisor of twenty-five case managers serving clients with developmental disabilities and other mental health issues. His responsibilities included monitoring and reviewing plans of care to insure quality of care, ensuring the overall to ensure the health, safety and welfare of clients, oversight of an \$18 million dollar program to ensure services to people with developmental disabilities in the community as an alternative for institutional services. Joe also monitored provider agencies for Medicaid errors and misappropriation of monies and reported back to the State. Joe and his wife Sue reside in Wilmington, NC.

Kayla Greene was hired in August 2015 as the Board's new Office Manager. Kayla replaces Wilma Ragan, who retired from the Board at the end of 2011. Kayla had worked for the Board on a temporary basis since March 2015. As the Board's Office Manager, Kayla's initial responsibilities have included supervision, corporations, license verifications, updating and maintaining the Board's website, and general administrative duties.

Kayla grew up in Boone, NC and studied graphic design and photography at Appalachian State University. In addition to working for the Board, Kayla owns her own photography business in the High Country. Prior to working for the Board, Kayla worked for a financial institution and as an office manager for a student housing company. After getting married in 2013, Kayla and her husband built a house and plan to stay in Boone to raise a family and continue to keep their roots in the High Country. Kayla is excited to be a member of the Board's staff and is thankful for the warm welcome she has received.



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August 3-4, 2017

November 9-10, 2017



Marc Davis, MA, LPA, was hired in January 2017 as the Board's new Staff Psychologist/Investigator. He has worked in community mental health for the past 13 years. He began his career in mental health providing individual therapy, psychological evaluations, and assessments with New River Behavioral Healthcare. His work in the field allowed him great experiences with many clients of different ages, backgrounds, and clinical needs. Throughout the past decade, Marc's work has focused primarily on providing crisis services to those in hospitals, jails, and other community locations. For the past 5 years, he has worked for Daymark Recovery Services, overseeing the crisis services for an 8 county area in Western North Carolina, providing clinical support for crisis clinicians in the area and working to build relationships between community stakeholders to better serve individuals in need of emer-

gency mental health and substance abuse services.

Throughout his work in the field, Marc has always been interested in psychological testing and has a great deal of experience providing a wide range of psychological evaluations for both children and adults. He has been responsible for completing court ordered, forensic, and diagnostic evaluations and has greatly enjoyed the experience this has given him.

Marc graduated from Appalachian State University with his bachelor's degree in psychology and returned to Appalachian State to obtain his master's degree in clinical psychology. Marc is married and has lived and worked in western North Carolina for the past 15 years. Marc enjoys traveling, music, and Baltimore Orioles baseball. He can also spend great amounts of time discussing movies, whether others want him to or not.

Marc is currently enjoying his role in assisting the public and other psychologists as the Staff Psychologist/Investigator for the North Carolina Psychology Board and finds the challenges of the position extremely rewarding.

A warm welcome to the newest Board and Staff Members! Your hard work and dedication is appreciated! Thank you for your service!

MEMBERS

Robert W. Hill, Ph.D., ABPP, *Licensed Psychologist, Chair*
 Kristine M. Herfkens, Ph.D., ABPP, *Licensed Psychologist, Vice Chair*
 Helen Brantley, Ph.D., *Licensed Psychologist*
 Stacie L. MacDonald, M.A., *Licensed Psychological Associate*
 Joseph Passquarelli, *Public Member*
 J. Anthony Powell, M.A., *Licensed Psychological Associate*
 Matthew I. Van Horn, J.D., M.B.A., *Public Member*

STAFF

Daniel P. Collins, J.D., *Executive Director*
 Marc B. Davis, M.A., *Staff Psychologist/Investigator*
 Kayla Greene, *Office Manager*
 Debbie Hartley, *Administrative Officer*
 Rebecca Osborne, *Communication Specialist*
 Sondra C. Panico, *Assistant Attorney General and Counsel to the Board*

CENTRAL OFFICE

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THE NORTH CAROLINA PSYCHOLOGY BOARD