STATE OF NORTH CAROLINA

BEFORE THE
NORTH CAROLINA
PSYCHOLOGY BOARD

NORTH CAROLINA PSYCHOLOGY BOARD
PUBLIC RULE-MAKING HEARING
Friday, September 27, 2019
9:30 O’Clock A.M.

LaQuinta Inns & Suites
1201 Lanada Road
Greensboro, North Carolina

BOARD MEMBERS:

Robert Hill, Ph.D., ABPP, Chairperson
Helen Brantley, Ph.D., ABPP, Vice-Chair
Lisa Duck, MPH
Susan Hurt, Ph.D.
Stacie MacDonald Jones, M.A.
Tonya Omar, M.A.

STAFF:

Daniel P. Collins, Executive Director

COUNSEL TO THE BOARD:

Sondra Panico, Assistant Attorney General

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Thereupon, the proceeding is held as follows:

CHAIRPERSON: Good morning. Welcome here. My name is Bob Hill. I am Chair of the North Carolina Psychology Board and will preside over this hearing. This public rule-making hearing of the North Carolina Psychology Board is hereby convened. Let the record show that it is now nine thirty-five. It is September 27th, 2019, and the location of this hearing is in the La Quinta Inn, Greensboro, North Carolina.

Would each Board member present please introduce yourself. Would you mind starting?

MS. DUCK: Lisa Duck.

MS. MACDONALD JONES: Stacie MacDonald Jones.

CHAIRPERSON: Robert Hill.

MS. BRANTLEY: Helen Brantley.

MS. OMAR: Tonya Omar.

MS. HURT: Susan Hurt.

CHAIRPERSON: Thank you. The North Carolina Psychology Board, pursuant to the authority vested in it by the North Carolina Psychology Practice Act and the North Carolina Administrative Procedures Act, proposes to amend rules contained in Title 21, Chapter 54. Notice of this hearing has been published in the North Carolina Register in Volume 34, Issue 5. A copy of the notice of rule-making proceedings will be
made a permanent part of the record in this matter.

The hearing is being conducted in accordance with the provisions of Article 2, Chapter 150(B) of the North Carolina General Statutes. Our purpose is to provide interested persons an opportunity to present their views concerning the rule-making action that is proposed. Please note that this is a time for the Board to receive remarks. Members of the Board will not respond to your comments or any questions, but will listen to any comments presented. If members of the public need clarification on the proposed rule, please contact a member of the Board staff following the hearing.

Before the Board hears comments from members of the public present at this hearing, Mr. Daniel Collins, Board Executive Director, will present the proposed rules. Thank you, Mr. Collins.

MR. COLLINS: Thank you, Dr. Hill. The following rules are being readopted with substantive changes:

The following rules are being readopted without
substantive changes: 21 NCAC 54 .1606 through .1609,
.2007, .2102, .2203, .2305, .2308, .2309, .2311, .2314,
.2401, .2402, .2601, .2801 through .2806.

The following rules are being repealed for
readoption: 21 NCAC 54 .2103 - excuse me - .2301
through .2303.

Thank you, Dr. Hill.

CHAIRPERSON: Thanks. I understand that we have a
list of members of the public that wish to comment on
the proposed rules. Note that we will take comments
from each person on the list. In order to allow time
for all people listed to make comments, we will limit
each person to two minutes and thirty seconds to
present comments. Once you have reached your limit,
you will be notified and we will move on to our next
speaker. Please be reminded that Board members will
not respond to your comments or questions but will
listen to your comments presented. Note that we have a
timer just to cue us and you as to the time involved.

And would you like to tell us what the---?

MR. COLLINS: Sure. And I do apologize in advance
if I mispronounce anyone's name because that's a strong
possibility I will. Patricia McGaffagan?

MS. MCGAFFAGAN: Good morning. Thank you for your
time. I am - work at a large organization. We have a
number of psychologists, and so I'm representing them. The question or comment that I have applies to Section .2001 regarding supervision, and the comment is, have you-all considered the vast differences in experience and tenure of supervisors in determining what kinds of content will be available for this required training. We have a number of supervisors who have forty plus years experience, and their concern is that their needs or things that they would want to have in a training would be very different from someone who is newly a supervisor. So thank you.

CHAIRPERSON: Thank you.

MS. PANICO: Ma'am, can you just state---?

CHAIRPERSON: Oh. Because of the court reporter who is recording this, could you tell her how to spell your last name?

MS. PANICO: And state your full name also.

MS. MCGAFFAGAN: Patricia McGaffagan, M-c-G-a-double-f, as in Frank, a-g-a-n. Thank you.

CHAIRPERSON: Thanks so much.

MS. MCGAFFAGAN: Sure.

MS. PANICO: If you could just say your name before you speak for the court reporter, that would be great.

MR. COLLINS: Great. Steve Shaber?
MR. SHABER: Good morning, Dr. Hill and members of
the Board. I'm Steve Shaber, Steven with a "v."
Shaber is S-h-a-b, as in boy, e-r. And I think, as
many of you know, I represent the North Carolina
Psychological Association, and I'm here on its behalf.

NCPA objects specifically to Section .2008(h)(3),
which is the section that would eliminate - eventually
eliminate the requirement for supervision by - of
Licensed Psychological Associates, and NCPA objects to
this on the grounds that the Practice Act does not
actually give this Board the authority to eliminate
supervision entirely. An agency or board such as this
can only exercise the powers that it's given by its
organic statute, and there are a number of indications
in the Practice Act that the Board does not have the
authority to eliminate supervision.

First of all, there are multiple references in the
statute to mandatory supervision for LPAs. The statute
uses the word "shall be supervised" when supervision is
required. The statute is especially strict when it
focuses on particular aspects, the more sophisticated
aspects of psychology, you know, such as psychotherapy
and counseling. The statute - the Act foresees that
the Board may actually choose to add new areas of
practice that require supervision. There's no hint in
the statute that the Board would ever abolish supervision altogether. Now I understand and I'm sure the Board understands that the statute says that the Board gets to set the amounts of supervision. NCPA says that no supervision is not an amount of supervision. To dispense with supervision altogether is not to implement a supervision requirement.

NCPA also wants to make a couple of other points in passing. The first is that - I mean the statute is decades old, and it's always been understood that LPAs would be supervised by LP's throughout the course of their career to some degree, and psychologists that were involved in the rewrite of the statute would testify that it was always the intention that the statute would require supervision to some degree of LPAs throughout the whole time.

So in conclusion, let me say this. When a Board changes its mind about what a statute means after decades, you know, with all respect to this Board and the intentions behind these changes, the Board is probably mistaken. Thank you all very much for your time. I appreciate it.

MR. COLLINS: Annette Perot?

MS. PEROT: It's Annette Perot, P-e-r-o-t. I'm speaking today as a representative of NCPA and as one
My first comment pertains to Rule .1901(a)(1) regarding the examination for professional practice in psychology or EPPP. The Association of State and Provincial Psychology Boards, or ASPPB, considers a scaled score of 500 to be the passing point for independent practice in psychology. While the overwhelming majority of states in the U.S. require a doctoral degree for independent licensure in psychology, virtually all the states that do provide an avenue for independent practice at the master's level require a passing point of 70 percent, or a scaled score of 500 on the EPPP. Should North Carolina allow for the eventual independent practice of LPAs with a scaled score of 440, that pass point would be the lowest in the country. There is no clear justification for why a scaled score of 440 should eventually lead to unsupervised practice regardless of the number of years of supervised experience. Supervised experience does not and should not replace demonstrable knowledge that according to the ASPPB is deemed to be critical for the competent practice of psychology.

My second comment pertains to Rule .2008(h)(3). Recently the American Psychological Association committed to developing an accreditation process for
master's level programs in health service psychology.

As was done for doctoral-level programs, his process will involve APA developing training standards for master's level programs including content and quality of course work, the nature and quantity of supervised experience, and competencies to be met. Until such time master's programs in North Carolina and throughout the United States have no benchmark by which to compare their training program against a national standard or to demonstrate that they are meeting expected standards. The absence of such nationally accepted standards and training models compromises the ability to determine whether an LPA applicant has received training sufficiently preparing them to provide unsupervised services to the public. All other mental health groups of licensed master's level providers in North Carolina who are able to practice independently, whether LPCs, LCSWs, or LMFTs, each have a nationally established training model and their own review and accreditation process for their profession.

Unfortunately, this is currently not the case for master's level providers in psychology.

Given that, it is premature to create a pathway for independent licensure for LPAs in North Carolina at this time. Thank you.
MR. COLLINS: Carol Williams?

MS. WILLIAMS: Good morning. Thank you for doing this. My name is Carol Williams. I am currently an LPA. I'm also one of the six petitioners, and I'm a member of the North Carolina Association of Professional Psychologists. I would offer my affidavit that was contained within the petition as my statement this morning, which is, of course, well over a three-minute mark, but also, I would – would say that I very much appreciate the time and effort that the Board has taken in review of The Psychology Act and the provisions within The Psychology Act that allow for this change. Thank you very much.

MR. COLLINS: Melissa Zhiss?

MS. ZHISS: Zhiss.

MR. COLLINS: Zhiss. Thank you.

MS. ZHISS: My name is Melissa Zhiss. It's spelled Z, as in zebra, h-i-s-s. And I am a master's level LPA. I came today to highlight the burden of unending supervision with LPAs who work in the public service in North Carolina. I worked – I still work for Mecklenburg County, have for the past twenty-two years. Came from another state where I had two years and twenty-two hundred hours of supervision, and the majority of my work has been in community mental health.
and now in the jails and court system. I work mostly with the vulnerable people, the most vulnerable people in the community, mostly the homeless SPMI, which is severe and persistent mentally ill, with substance abuse, and IDD who are involved in the criminal justice system. I conduct psychological assessments for disability determination services free of charge when individuals are – when they miss their consultative exams in the community and they're either really homeless or they are in custody, to help them get the benefits that they deserve in place. I've performed these services for well over, you know, twenty-two years, and due to the lack of professionals willing to perform these types of duties, to go out onto the streets and be able to be available in those centers for those individuals. And when I came here, I was actually advised to get an LPC because I could qualify for Licensed Professional Counselor, but I do enjoy psychological testing and have been doing that both in Michigan and here for twenty-five or twenty-six years.

There are a lot of people who are like me who have that ability, but there are a lot of people who do not have that ability because their degree is in psychology instead of counseling psychology and they are very limited in where they can work. But as I grow closer
to retirement, I am actually considering ending my LPA and moving into an LPC because I cannot be hired in terms of a call center because I have a supervised license. The Red Cross no longer recognizes me even though I've been in disaster relief and been with Katrina and done a lot of different types of work over the years because now they have a new law where I can no longer have a supervised license.

So I just would like you to take that into mind. We actually have somebody within our county who was first licensed in 1978, and he is still having to get supervision forty-one years later, and he provides an invaluable service to vocational rehab. So please keep these things in mind when you look over these proposals for the supervision. Thank you.

MR. COLLINS: Alice Moore?

MS. MOORE: I was not going to speak. I'm just here to support.

MR. COLLINS: Oh. Okay. Martha Turner Quest?

MS. TURNER QUEST: I am not speaking either.

MR. COLLINS: Okay. I'm sorry. Ms. Wang?

MS. WANG: I am not speaking.

MR. COLLINS: Okay. Nancy Laney?

MS. LANEY: I'm here to observe, and I support NCPA's position.
MR. COLLINS: Steve Puckett?

MR. PUCKETT: I'm also here just to observe.

MR. COLLINS: Roslyn Walker, did I miss---?

MS. WALKER: Yeah, I am going to speak.

MR. COLLINS: I'm sorry. I apologize.

MS. WALKER: That's okay. My name is Roslyn Walker, R-o-s-l-y-n, Walker, and I came here today to talk about some hardships that I've personally endured as an LPA. I've been licensed as an LPA for twenty-seven years, since 1992, and early in my career I was fortunate enough to have supervision provided for me at the places that I worked, community mental health places. But about fourteen years into my career, my desire was to be more independent, and I began to have to foot the bill myself for my supervision. Over the past thirteen years I figured I've paid about $15,600 for supervision, and that is at a Level 3. So if you are at Level 1, you're quadrupling that. I wasn't a math major.

The need for mental health services has never dwindled, and in fact, over the course of my career, I believe that it has increased, but my ability to provide services to more people has not grown with the need. I can't do disaster relief with the Red Cross, which is something that I really wanted to do and was...
passionate about. I can't serve veterans. I've been
turned down employment at a family medical practice
because I can't be credentialed by the insurances that
the patients have. They were looking for an LPC. Can
you tell me that an LPC with two or three years of
supervision is better qualified to help than a
twenty-seven-year veteran with a psychology background?
The role I play in the provision of services has been
dictated to me by my license rather than client needs,
rather than my expertise in - my growing expertise in
various clinical areas, and by my financial status and
ability to pay for supervision.

I have considered at one point getting an LPC
license, but I've been limited because my master's is
in psychology and not in counseling. I have applied
for doctoral programs, but programs take so few
candidates each year. When young people ask me what I
should know about a career in psychology or counseling,
I tell them before you decide on what school you want
to go to, who you want to help, first do your research
on the licenses available and go from there. Thank
you.

MR. COLLINS: Pam Corbett?

MS. CORBETT: Good morning. Mr. Collins,
Dr. Hill, and members of the Board, my name is Pamela
Corbett, C-o-r-b-e-t-t. I've been licensed as an LPA by this board since 1983, not quite as long as somebody that was referred to, but I've been at it for a while. I have been involved with NCAP in various capacities for more than twenty-five years, NCAP being the organization that represents LPAs. I have served two terms on this board in the early 2000s, and I participated in the NCAP and the NCPA task force perhaps five years ago that was looking for ways to end career-long supervision among other things, so that's where I'm coming from.

Thank you for taking a fresh and long overdue look at the question of career-long supervision. Some considerations to keep in mind, beyond three to five years, the data – the research data say supervision does not provide any additional competency or protection to the public. Career-long supervision makes LPAs more expensive to hire than comparable master's-level professionals. Many jobs are now closed to LPAs and filled by other sometimes less qualified master's-level practitioners. Career-long supervision is expensive. It makes LPAs less reimbursable by insurance and renders them less able to compete with other independently practicing master's-level practitioners. As a result, LPAs are leaving the
discipline in increasing numbers or opting not to become psychologists in the first place, and we all know the value of the training as a psychologist especially working with those with mental health challenges. All of this has led to fewer psychological services traditionally provided by LPAs or available to those who need them across this state and especially in rural areas.

During the NCAP/NCPA task force discussions, there were no objections to LPAs having a path to independent practice nor any concern about any potential harm to the public, so supervision is in fact under the - under the supervision of this Board. So, yes, you do define what supervision is supposed to look like, but that's exactly what your responsibility is, what does it look like, how long is it supposed to last. I'm not a lawyer, but I think that's pretty clear in the statute.

Again, I thank you for taking a look at this and remaining objective as you evaluate it. Thank you.

MR. COLLINS: Mary Ann Olsen?

MS. OLSEN: Mary Ann, two words, Olsen, O-l-s-e-n. Several years ago I was asked by the clinic supervisor of the local LME to apply for a position in a semi-rural county where I lived. The triage work of this position provided intake assessments for clients
first encountering the mental health system. The results would guide initial treatment options. I was the only psychologist among the applicants. I was the only applicant trained in assessments. I was not hired. The clinic supervisor later lamented to me the directive she had received, "Employ an LPC." There were no funds in the budget to support supervision and limited expectation for insurance reimbursement. That circumstance has stayed with me. Troubled - likely the most troubled residents of my community making their way to the local agency for mental health help might perhaps have been denied adequate assessment.

I know the hard, arduous, complicated seats in which you sit. Appointed to the Psychology Board for a decade, seven years as chair or vice chair, I remember those uncomfortable seats. Nonetheless, cleaning up the rules to repair oversights and amending rules that no longer are applicable to standard psychological practice in North Carolina is a critically important function of this Board. As a former Board member, as a fellow of ASPPB, and after many years of long legislative committee meetings, work on several task forces, research, and endless conferences and presentations on this subject, I appear today in full support of the proposed changes to Rule 21.54.2008.
The opposition to this change has never been about protection of the public, nor has it been about competence. A joint task force in our state ended when it hit a wall of resistance but not related to either of those conditions. A line in the sand was drawn about the title of psychologists. LPAs trained in psychology were not willing to call themselves something else, and LP's were unwilling to allow that title to continued to be claimed by master's-trained practitioners. The opposition has always been a well-defined, well-funded guild insistence to define the practice of psychology as Ph.D. qualified only. The employment situation I described is not unique to me or to that county. Consumers of mental health services in both the private and public systems of care are routinely deprived of the expertise of qualified psychologists due to an ongoing guild conflict. In that regard, protections of the public are not offered, and if this Board can change that, it should.

MS. PANICO: Tara Luellen?

MS. LUELLEN: Good morning. Thank you, members of the Board for allowing us to come and speak with you today. As a--- Oh, Tara Luellen, T-a-r-a, L-u-e-l-l-e-n. I've been licensed as an LPA in North Carolina since 2011. Prior to that I was licensed in
the states of Kentucky and Alabama. The State of
Kentucky, as some of you probably know, does have a
path for independent licensure, so when I moved to
North Carolina, I was excited about my career here but
really disappointed to learn that that was not
possible.

I will also refer you, much as one of my
colleagues did, to - I'm one of the petitioners - to my
affidavit that was supplied to you previously. That
would take me a long time to go over, and I won't waste
your time, again, with that. But I do want to point
out that I have more than seven years of experience,
but for the last four years, I have not been practicing
in the field even though I feel as though I am very
highly competent and can provide much needed mental
health services to the public. I have both inpatient
and outpatient experience, I have both in-depth
assessment experience and therapeutic intervention
experience, and I'm not able to provide those services
to the public because I felt pushed out of the industry
given the restrictions.

I was turned down for several employment
opportunities despite my resume and competency, which
all of the people that have worked with me before would
attest to, and I think that this is important because
it not only restricted me as an individual, someone who
wanted to practice in the industry and offer these
services, but particularly as it relates to the public
and the access to those services. And these services,
for me, have not been offered for the past four years,
and I would love the ability to be able to have the -
have the chance to offer what I can to the public and
those much-needed services. And I think that - I
appreciate your efforts as it relates to looking over
the statute that someone else pointed out is decades
old. I think everyone can agree that, you know, you
have to revisit those things sometimes, and I
appreciate your efforts to do so. And thank you so
much for your time and your support of the rule changes
and putting those forth for us. Thank you.

MR. COLLINS: Dr. Hill---

CHAIRPERSON: Is that everyone?

MR. COLLINS: ---Sondra went to see if anyone else
is coming back right now to speak, so if you want to
just hold for maybe a second.

And you all can hear additional comments or you're
free to - you're free to leave.

CHAIRPERSON: We're going to pause while we check
the lobby, and if you wish to, you're welcome to leave.

MR. COLLINS: Does anyone else have any comments
they'd like to share while we're here?

(No Response)

CHAIRPERSON: If no one else has other comments, let me tell you, the record of this proceeding will be available for public inspection at the Board's office during regular business hours. The Board will consider the comments made today as well as the written comments and will render a decision on the proposed rule-making action at its November 7th and 8th, 2019, Board meeting. You are reminded that you have until November 4th, 2019, to submit written comments. The members of the Board and I would like to thank all of you for your attendance at this proceeding.

(Whereupon, at 10:04 o'clock a.m., the hearing was adjourned.)
REPORTER'S CERTIFICATE

I, PAGE CHAMPION ROBERTS, CVR-CM, Certified Verbatim Reporter, do hereby certify:

That on the 27th day of September 2019, the foregoing Public Rule-Making Hearing of the North Carolina Psychology Board was reported by me and the foregoing transcript is a true and correct record of the proceedings.

That I am not related to or in any way associated with any of the parties or their counsel and that I am not interested in the event thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October 2019.

Page Champion Roberts
Page Champion Roberts, CVR-CM
Guilford County, North Carolina
Notary Certificate No. 19942340081