

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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1 Thereupon, the proceeding is held as follows:

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

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

12 MS. DUCK: Lisa Duck.

13 MS. MACDONALD JONES: Stacie MacDonald Jones.

14 CHAIRPERSON: Robert Hill.

15 MS. BRANTLEY: Helen Brantley.

16 MS. OMAR: Tonya Omar.

17 MS. HURT: Susan Hurt.

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

1 made a permanent part of the record in this matter.

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

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

18 MR. COLLINS: Thank you, Dr. Hill. The following
19 rules are being readopted with substantive changes:
20 21 NCAC 54 .1602, .1605, .1610, and .1612, .1701 to
21 .1703, .1705 to .1707, .1802, .1803, .1901, .1903,
22 .1904, .2001, .2002, .2005, .2006, .2007, .2009, .2101,
23 .2103, .2104, .2202, .2304, .2701, and .2703 through
24 .2706.

25 The following rules are being readopted without

1 substantive changes: 21 NCAC 54 .1606 through .1609,
2 .2007, .2102, .2203, .2305, .2308, .2309, .2311, .2314,
3 .2401, .2402, .2601, .2801 through .2806.

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

7 Thank you, Dr. Hill.

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

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

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

24 MS. MCGAFFAGAN: Good morning. Thank you for your
25 time. I am - work at a large organization. We have a

1 number of psychologists, and so I'm representing them.
2 The question or comment that I have applies to
3 Section .2001 regarding supervision, and the comment
4 is, have you-all considered the vast differences in
5 experience and tenure of supervisors in determining
6 what kinds of content will be available for this
7 required training. We have a number of supervisors who
8 have forty plus years experience, and their concern is
9 that their needs or things that they would want to have
10 in a training would be very different from someone who
11 is newly a supervisor. So thank you.

12 CHAIRPERSON: Thank you.

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

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

17 MS. PANICO: And state your full name also.

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

20 CHAIRPERSON: Thanks so much.

21 MS. MCGAFFAGAN: Sure.

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

25 MR. COLLINS: Great. Steve Shaber?

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

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

17 First of all, there are multiple references in the
18 statute to mandatory supervision for LPAs. The statute
19 uses the word "shall be supervised" when supervision is
20 required. The statute is especially strict when it
21 focuses on particular aspects, the more sophisticated
22 aspects of psychology, you know, such as psychotherapy
23 and counseling. The statute - the Act foresees that
24 the Board may actually choose to add new areas of
25 practice that require supervision. There's no hint in

1 the statute that the Board would ever abolish
2 supervision altogether. Now I understand and I'm sure
3 the Board understands that the statute says that the
4 Board gets to set the amounts of supervision. NCPA
5 says that no supervision is not an amount of
6 supervision. To dispense with supervision altogether
7 is not to implement a supervision requirement.

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

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

23 MR. COLLINS: Annette Perot?

24 MS. PEROT: It's Annette Perot, P-e-r-o-t. I'm
25 speaking today as a representative of NCPA and as one

1 of NCPA's past presidents.

2 My first comment pertains to Rule .1901(a)(1)
3 regarding the examination for professional practice in
4 psychology or EPPP. The Association of State and
5 Provincial Psychology Boards, or ASPPB, considers a
6 scaled score of 500 to be the passing point for
7 independent practice in psychology. While the
8 overwhelming majority of states in the U.S. require a
9 doctoral degree for independent licensure in
10 psychology, virtually all the states that do provide an
11 avenue for independent practice at the master's level
12 require a passing point of 70 percent, or a scaled
13 score of 500 on the EPPP. Should North Carolina allow
14 for the eventual independent practice of LPAs with a
15 scaled score of 440, that pass point would be the
16 lowest in the country. There is no clear justification
17 for why a scaled score of 440 should eventually lead to
18 unsupervised practice regardless of the number of years
19 of supervised experience. Supervised experience does
20 not and should not replace demonstrable knowledge that
21 according to the ASPPB is deemed to be critical for the
22 competent practice of psychology.

23 My second comment pertains to Rule .2008(h)(3).
24 Recently the American Psychological Association
25 committed to developing an accreditation process for

1 master's level programs in health service psychology.
2 As was done for doctoral-level programs, his process
3 will involve APA developing training standards for
4 master's level programs including content and quality
5 of course work, the nature and quantity of supervised
6 experience, and competencies to be met. Until such
7 time master's programs in North Carolina and throughout
8 the United States have no benchmark by which to compare
9 their training program against a national standard or
10 to demonstrate that they are meeting expected
11 standards. The absence of such nationally accepted
12 standards and training models compromises the ability
13 to determine whether an LPA applicant has received
14 training sufficiently preparing them to provide
15 unsupervised services to the public. All other mental
16 health groups of licensed master's level providers in
17 North Carolina who are able to practice independently,
18 whether LPCs, LCSWs, or LMFTs, each have a nationally
19 established training model and their own review and
20 accreditation process for their profession.
21 Unfortunately, this is currently not the case for
22 master's level providers in psychology.

23 Given that, it is premature to create a pathway
24 for independent licensure for LPAs in North Carolina at
25 this time. Thank you.

1 MR. COLLINS: Carol Williams?

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

14 MR. COLLINS: Melissa Zhiss?

15 MS. ZHISS: Zhiss.

16 MR. COLLINS: Zhiss. Thank you.

17 MS. ZHISS: My name is Melissa Zhiss. It's
18 spelled Z, as in zebra, h-i-s-s. And I am a master's
19 level LPA. I came today to highlight the burden of
20 unending supervision with LPAs who work in the public
21 service in North Carolina. I worked - I still work for
22 Mecklenburg County, have for the past twenty-two years.
23 Came from another state where I had two years and
24 twenty-two hundred hours of supervision, and the
25 majority of my work has been in community mental health

1 and now in the jails and court system. I work mostly
2 with the vulnerable people, the most vulnerable people
3 in the community, mostly the homeless SPMI, which is
4 severe and persistent mentally ill, with substance
5 abuse, and IDD who are involved in the criminal justice
6 system. I conduct psychological assessments for
7 disability determination services free of charge when
8 individuals are - when they miss their consultative
9 exams in the community and they're either really
10 homeless or they are in custody, to help them get the
11 benefits that they deserve in place. I've performed
12 these services for well over, you know, twenty-two
13 years, and due to the lack of professionals willing to
14 perform these types of duties, to go out onto the
15 streets and be able to be available in those centers
16 for those individuals. And when I came here, I was
17 actually advised to get an LPC because I could qualify
18 for Licensed Professional Counselor, but I do enjoy
19 psychological testing and have been doing that both in
20 Michigan and here for twenty-five or twenty-six years.

21 There are a lot of people who are like me who have
22 that ability, but there are a lot of people who do not
23 have that ability because their degree is in psychology
24 instead of counseling psychology and they are very
25 limited in where they can work. But as I grow closer

1 to retirement, I am actually considering ending my LPA
2 and moving into an LPC because I cannot be hired in
3 terms of a call center because I have a supervised
4 license. The Red Cross no longer recognizes me even
5 though I've been in disaster relief and been with
6 Katrina and done a lot of different types of work over
7 the years because now they have a new law where I can
8 no longer have a supervised license.

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

16 MR. COLLINS: Alice Moore?

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

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

20 MS. TURNER QUEST: I am not speaking either.

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

22 MS. WANG: I am not speaking.

23 MR. COLLINS: Okay. Nancy Laney?

24 MS. LANEY: I'm here to observe, and I support
25 NCPA's position.

1 MR. COLLINS: Steve Puckett?

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

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

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

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

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

20 The need for mental health services has never
21 dwindled, and in fact, over the course of my career, I
22 believe that it has increased, but my ability to
23 provide services to more people has not grown with the
24 need. I can't do disaster relief with the Red Cross,
25 which is something that I really wanted to do and was

1 passionate about. I can't serve veterans. I've been
2 turned down employment at a family medical practice
3 because I can't be credentialed by the insurances that
4 the patients have. They were looking for an LPC. Can
5 you tell me that an LPC with two or three years of
6 supervision is better qualified to help than a
7 twenty-seven-year veteran with a psychology background?
8 The role I play in the provision of services has been
9 dictated to me by my license rather than client needs,
10 rather than my expertise in - my growing expertise in
11 various clinical areas, and by my financial status and
12 ability to pay for supervision.

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

23 MR. COLLINS: Pam Corbett?

24 MS. CORBETT: Good morning. Mr. Collins,
25 Dr. Hill, and members of the Board, my name is Pamela

1 Corbett, C-o-r-b-e-t-t. I've been licensed as an LPA
2 by this board since 1983, not quite as long as somebody
3 that was referred to, but I've been at it for a while.
4 I have been involved with NCAP in various capacities
5 for more than twenty-five years, NCAP being the
6 organization that represents LPAs. I have served two
7 terms on this board in the early 2000s, and I
8 participated in the NCAP and the NCPA task force
9 perhaps five years ago that was looking for ways to end
10 career-long supervision among other things, so that's
11 where I'm coming from.

12 Thank you for taking a fresh and long overdue look
13 at the question of career-long supervision. Some
14 considerations to keep in mind, beyond three to five
15 years, the data - the research data say supervision
16 does not provide any additional competency or
17 protection to the public. Career-long supervision
18 makes LPAs more expensive to hire than comparable
19 master's-level professionals. Many jobs are now closed
20 to LPAs and filled by other sometimes less qualified
21 master's-level practitioners. Career-long supervision
22 is expensive. It makes LPAs less reimbursable by
23 insurance and renders them less able to compete with
24 other independently practicing master's-level
25 practitioners. As a result, LPAs are leaving the

1 discipline in increasing numbers or opting not to
2 become psychologists in the first place, and we all
3 know the value of the training as a psychologist
4 especially working with those with mental health
5 challenges. All of this has led to fewer psychological
6 services traditionally provided by LPAs or available to
7 those who need them across this state and especially in
8 rural areas.

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

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

20 MR. COLLINS: Mary Ann Olsen?

21 MS. OLSEN: Mary Ann, two words, Olsen, O-l-s-e-n.
22 Several years ago I was asked by the clinic supervisor
23 of the local LME to apply for a position in a
24 semi-rural county where I lived. The triage work of
25 this position provided intake assessments for clients

1 first encountering the mental health system. The
2 results would guide initial treatment options. I was
3 the only psychologist among the applicants. I was the
4 only applicant trained in assessments. I was not
5 hired. The clinic supervisor later lamented to me the
6 directive she had received, "Employ an LPC." There
7 were no funds in the budget to support supervision and
8 limited expectation for insurance reimbursement. That
9 circumstance has stayed with me. Troubled - likely the
10 most troubled residents of my community making their
11 way to the local agency for mental health help might
12 perhaps have been denied adequate assessment.

13 I know the hard, arduous, complicated seats in
14 which you sit. Appointed to the Psychology Board for a
15 decade, seven years as chair or vice chair, I remember
16 those uncomfortable seats. Nonetheless, cleaning up
17 the rules to repair oversights and amending rules that
18 no longer are applicable to standard psychological
19 practice in North Carolina is a critically important
20 function of this Board. As a former Board member, as a
21 fellow of ASPPB, and after many years of long
22 legislative committee meetings, work on several task
23 forces, research, and endless conferences and
24 presentations on this subject, I appear today in full
25 support of the proposed changes to Rule 21.54.2008.

1 The opposition to this change has never been about
2 protection of the public, nor has it been about
3 competence. A joint task force in our state ended when
4 it hit a wall of resistance but not related to either
5 of those conditions. A line in the sand was drawn
6 about the title of psychologists. LPAs trained in
7 psychology were not willing to call themselves
8 something else, and LP's were unwilling to allow that
9 title to continued to be claimed by master's-trained
10 practitioners. The opposition has always been a
11 well-defined, well-funded guild insistence to define
12 the practice of psychology as Ph.D. qualified only.
13 The employment situation I described is not unique to
14 me or to that county. Consumers of mental health
15 services in both the private and public systems of care
16 are routinely deprived of the expertise of qualified
17 psychologists due to an ongoing guild conflict. In
18 that regard, protections of the public are not offered,
19 and if this Board can change that, it should.

20 MS. PANICO: Tara Luellen?

21 MS. LUELLEN: Good morning. Thank you, members of
22 the Board for allowing us to come and speak with you
23 today. As a--- Oh, Tara Luellen, T-a-r-a,
24 L-u-e-l-l-e-n. I've been licensed as an LPA in North
25 Carolina since 2011. Prior to that I was licensed in

1 the states of Kentucky and Alabama. The State of
2 Kentucky, as some of you probably know, does have a
3 path for independent licensure, so when I moved to
4 North Carolina, I was excited about my career here but
5 really disappointed to learn that that was not
6 possible.

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

22 I was turned down for several employment
23 opportunities despite my resume and competency, which
24 all of the people that have worked with me before would
25 attest to, and I think that this is important because

1 it not only restricted me as an individual, someone who
2 wanted to practice in the industry and offer these
3 services, but particularly as it relates to the public
4 and the access to those services. And these services,
5 for me, have not been offered for the past four years,
6 and I would love the ability to be able to have the -
7 have the chance to offer what I can to the public and
8 those much-needed services. And I think that - I
9 appreciate your efforts as it relates to looking over
10 the statute that someone else pointed out is decades
11 old. I think everyone can agree that, you know, you
12 have to revisit those things sometimes, and I
13 appreciate your efforts to do so. And thank you so
14 much for your time and your support of the rule changes
15 and putting those forth for us. Thank you.

16 MR. COLLINS: Dr. Hill---

17 CHAIRPERSON: Is that everyone?

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

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

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

25 MR. COLLINS: Does anyone else have any comments

1 they'd like to share while we're here?

2 (No Response)

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

14 (Whereupon, at 10:04 o'clock a.m., the hearing was
15 adjourned.)

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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