

TENNESSEE BOARD OF EXAMINERS IN PSYCHOLOGY

DATE: March 17, 2016
TIME: 9:00 a.m., CST
LOCATION: Health Related Boards
Iris Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: J. Trevor Milliron, Ph.D., Chair
Janice Pazar, Ph.D., Vice-Chair
Mark Loftis, Ph.D., Sr. Psychological Examiner
David C. Mathis, Ed.D.
Timothy Urbin, Ph.D.
Rebecca Joslin, Ed.D., Ph.D.
Annette Little, Ph.D., BCBA-D
Hugh D. Moore, Ph.D.

BOARD MEMBERS

ABSENT: Jennifer Winfree, Consumer Member

STAFF

PRESENT: Teddy Wilkins, Unit Director
James Hill, Board Administrator
Paetria Morgan, Office of General Counsel

Dr. Milliron, Board Chair, called the Board meeting to order at 9:05 a.m. A roll call was conducted and a quorum was present.

Discuss/Ratify Behavior Analyst Licensing Rules

Dr. Little stated there were not a lot of changes made to the rules at the Applied Behavior Analyst Licensing Committee meeting held May 23, 2016. Dr. Little said the Committee added cultural diversity to the continuing education requirements and decided to maintain the BACB code of ethics.

Ms. Morgan stated that there was a letter that came in after the rulemaking hearing and the comment period expired. Ms. Morgan said there were some errors in the correspondence submitted, the first under approval of rules, T.C.A. §63-11-303(h). Ms. Morgan said anything the Committee approves or adopts has to come before the Board for approval and, if the Committee doesn't approve or adopt a rule, it doesn't come before the Board.

Ms. Morgan said the other error is regarding continuing education as the statute requires Behavior Analysts to be certified and the certifying entity determines which courses are appropriate and they give credit for. Ms. Morgan said the Committee has no control over what courses can be used for approval and cannot require courses to be APA or TPA approved courses.

Ms. Morgan stated the licensed Assistant Behavior Analyst must be supervised by a National Board certified Behavior Analyst or a National Board certified Behavior Analyst doctoral from a clinical perspective. Ms. Morgan said that does not mean they cannot work for a psychologist, or anyone else, but they must have a relationship with a National Board certified Behavior Analyst or National Board certified Behavior Analyst doctoral.

Dr. Pazar thanked everyone who presented information, opinions and concerns regarding this rule and stated there were a number of important issues raised, including concerns from Speech Pathologists, Occupational Therapists and the TPA regarding the scope of practice. Dr. Pazar said even as psychologist we are limited by our training, experience and supervision skills and hopes that now Behavior Analysts have been certified and working in their scope of practice they will continue to do so.

Dr. Pazar said she was taken with Michael Thomas's comments that he was glad Behavior Analysts were being licensed because that gives a certain amount of responsibility and consequences for those working outside their code of ethics. Dr. Pazar stated it was a long awaited opportunity for this group to have a process within Tennessee to take their place among all the other disciplines.

Dr. Mathis asked Dr. Pazar to clarify her comments regarding the code of ethics.

Dr. Pazar said at the last meeting it was determined that there were no significant differences and the code of ethics are very similar to APA.

Dr. Urbin said he agrees with Dr. Pazar's comment that if they were not certified or licensed there is really no mechanism for dealing with unethical or unprofessional behavior as far as protecting the people in the state of Tennessee.

Dr. Loftis stated having a license and a Committee to be accountable to is a great step forward and even though he has reservations, his responsibility is to the citizens of the State of Tennessee.

Dr. Mathis said there are a few issues he has and asked what was the authority of the Licensing Committee in helping the Board in their responsibilities. Dr. Mathis stated there was concern over whether or not this was to allow the Committee to become a rather autonomous committee on its own rather than working with the Board. Dr. Mathis said it is clear that the Committee is functioning to help the Board make licensure decisions; however, he is concerned that the broad scope of practice is going to allow for complaints.

Dr. Little stated that TABA has met with the Speech Language Pathologists and Occupational Therapists to help them understand the different scopes of practice.

Dr. Moore said when he was researching other boards he found that a lot of the other professions allowed on-line continuing education.

Ms. Morgan stated the statute has delegated the authority for the national certifying entity to determine what continuing education is appropriate and that the statute requires that in order to have a license as a Behavior Analyst you have to have a national certification.

Dr. Pazar asked what would happen if the Board does not approve the rules today?

Ms. Wilkins said it would hold up the licensure process and the Committee would have to go back to the drawing board and start from scratch and it could be perceived that the Board is trying to protect their profession by not allowing licensees to become licensed Behavior Analysts. Ms. Wilkins further stated the rules can be amended after they go into effect and, until they go into effect, there are no means to discipline individuals who are in violation of their practice act.

Dr. Mathis inquired about whether the Board can enact a change to the Committee rules and regulations once they have been approved without the Committee's approval. Ms. Morgan confirmed that in the scenario, the Board can only recommend. The Committee would have to initiate, and approve any changes and that would be voted on by the Board.

Dr. Little stated the Committee and the Board have been very collaborative in getting the rules in place and has a process to amend the rules if there becomes a problem.

Upon discussion, Mr. Hill conducted a roll call vote to approve/deny the Behavior Analyst Rules.

Dr. Little – yes
Dr. Joslin – yes
Dr. Loftis – yes
Dr. Mathis – no
Dr. Moore – no
Dr. Pazar – yes
Dr. Urbin – yes
Dr. Milliron - yes

By a vote of six (6) to two (2) the motion carried.

Ms. Wilkins stated they will not be taking applications until the rules are final which will be approximately six (6) months or longer.

Ms. Wilkins introduced Mr. James Hill who is now the Psychology Board and the Behavior Analysts Committee Administrator. Ms. Wilkins said Mr. Hill does an excellent job and she wished she had five (5) more Board Administrators like him.

Approve December 10, 2015 Board Meeting Minutes

Upon review of the minutes, Dr. Pazar stated that Dr. Little attended the ASPPB conference and she did not. Dr. Little asked that the acronym BCBA be changed to BACB.

Dr. Pazar made a motion, seconded by Dr. Loftis, to approve the minutes as corrected. The motion carried.

Office of General Counsel

Ms. Morgan said there are five (5) open cases in OGC and no agreed orders for the Board's review.

Ms. Morgan discussed the Conflict of Interest Policy with the Board and asked if a Board member has a potential conflict to either recuse themselves from the proceeding or discuss the matter with her outside the meeting room.

Ms. Morgan stated she has a consent order to present to the Board for **Tammy Lynn Dukewich, Ph.D.** who failed to obtain the required number of continuing education hours for 2011/2012.

Ms. Morgan said Dr. Dukewich has agreed to pay one (1) Type C Civil Penalty in the amount of \$100 for falsely certifying on her license renewal that she has completed the required continuing education and one (1) Type C Civil Penalty in the amount of \$100 for failing to complete the required continuing education hours for a total assessment of \$200. Ms. Morgan stated that all civil penalties must be paid in full within sixty (60) days of the effective date of the order and obtain three (3) hours of ethics continuing education hours for the 2011-2012 cycle, in addition to three (3) hours of Board approved ethics continuing education.

Dr. Urbin made a motion, seconded by Dr. Little, to approve the consent order. Dr. Milliron recused himself. The motion carried.

Ms. Morgan stated they have a screening panel review scheduled after today's meeting and explained the procedures. Ms. Morgan said when they receive a complaint a consent order is drafted and they work toward a settlement. Ms. Morgan said if they cannot come to terms on discipline the matter goes to a screening panel consisting of three (3) Board members. Ms. Morgan said the panel will be given an opportunity to review the files and discuss the matter with the respondent, after which the panel will come up with a resolution, and if the respondent accepts the discipline the attorney will put together a consent order for approval by the Board. Ms. Morgan stated if the recommendation is not agreed upon by OGC it will come before the Board in a contested case hearing.

Dr. Mathis made a statement regarding the screening panel process. He encouraged members to trust the work of the investigator, Counsel, and consultant who arrived at this point and to be cautious, under the press of time, to attempt to resolve the issue by weakening the consequences.

Discuss Legislation and take action if needed

Ms. Morgan said SB1156 states that counselors will not be required to serve clients whose outcome and behavior are in conflict with the therapist's religious belief. Ms. Morgan said the bill was filed through the Department of Mental Health and rolled over for another week.

Ms. Morgan said SB2372 will require social workers, marriage and family therapists, professional counselors, pastoral counselors, alcohol and drug abuse counselors, psychologists, occupational therapists and any other direct staff working in the field of mental health and substance abuse to obtain two (2) hours of continuing education in suicide prevention

Dr. Milliron asked if the Board wanted to take a position on either of the bills and stated that the bill on suicide would mandate new continuing education for the Board. Dr. Milliron said two (2) of the hours would be spent on suicide training rather than receiving other continuing education and that part of the issue is that we are the ones that need to be teaching suicide prevention courses.

Dr. Pazar said psychologists take advanced training in suicide interventions and assessing suicide in clients during crisis situations.

Dr. Moore said the majority of persons committing suicide are being treated by a medical professional and not a mental health professional.

Dr. Milliron asked if the Board wanted to take a position on the bill. Dr. Pazar recommended that as a Board we send correspondence to the appropriate people making the recommendation to include medical professionals who are in the first line for screening suicidal individuals. Dr. Urbin seconded the motion.

Dr. Milliron asked that the motion be withheld until they can discuss this with a TPA representative.

Ms. Morgan stated that once the Legislative session is over the legislative liaison will explain the bills that passed in more detail.

Ms. Morgan said the fee reduction rules went into effect in December 2015 and that the telepsychology rules are still in the internal review process.

Investigative Report

Ms. Antoinette Welch, newly appointed Director of the Investigations Division of Health Related Boards addressed the Board stating she was a Metro Police Officer for fourteen (14) years, became an attorney in 2000 and practiced law for seven (7) years and then became an Assistant District Attorney Prosecutor for eight (8) years.

Ms. Welch stated she is the founder of a non-profit organization called The Hannah Project which is a program for women that have been arrested for prostitution. Ms. Welch said it is a

way to screen women who are victims of sex trafficking and they found, over the last four (4) years, that one-third (1/3) of the women were actually being trafficked and they were able to get their records expunged.

Ms. Welch said they are starting the program in Murfreesboro and have one in Atlanta and Jackson.

Ms. Welch stated they received two (2) new complaints against psychologists and closed five (5) cases. Ms. Welch said of the five (5) closed one (1) was with a letter of concern, two (2) with no violation and two (2) sent to OGC.

Ms. Welch said there are sixteen (16) open cases against psychologists and they are currently monitoring thirteen (13) people.

Administrative Report

Mr. Hill stated as of March 15, 2016 there are 1389 licensed psychologists, 434 licensed psychological examiners/senior psychological examiners and 46 licensed CPA's.

Mr. Hill said as of the last meeting there are 41 psychology applications in process and 3 CPA applications in process, 23 newly licensed psychologists and one newly licensed CPA.

Mr. Hill said 155 psychologists renewed their licenses, 97 renewed on-line for a 68% on-line renewal rate, 6 retired, 11 expired and 3 reinstated.

Mr. Hill stated there are 0 newly licensed psychological examiners/senior psychological examiners, 33 renewed, 19 renewed on line for a 58% on-line renewal rate and 3 retired.

Mr. Hill said there is 1 newly licensed CPA, 4 renewed their license, 2 renewed online for a 50% on-line renewal rate and 1 expired.

Mr. Hill reviewed the remaining Board Meeting dates for 2016:

June 16, 2016.

Sept 15, 2016

December 8, 2016

Discuss and Ratify/Deny Newly Licensed and Reinstated

Dr. Urbin made a motion, seconded by Dr. Pazar, to approve the following newly licensed psychologists:

Amineh Abbas
Jennifer Marie Allen
Ashley Barroquillo
Bonnie M. Benson-Palmgren

Ding Keidy
Jacqueline Marie Klaver
Patricia Klotz
Kristin N. Lewis

Caleb James Corwin
Emily Patty Corwin
Elliott John Fitzpatrick
Rena Lachelle Hill
Udalkobong Ikpe

Melissa J. Mathews
Jennifer Alice Moore
Maureen Carroll Smith
Jason Lee Steadman
Brittany Anne Tenbarga

The motion carried.

Dr. Little made a motion, seconded by Dr. Moore, to approve the following reinstated psychologists.

Alexander Dewitt Galloway
John S. Leite
Betty S. Noble

The motion carried.

Tennessee Psychological Association (TPA)

Dr. Frank Edwards, TPA, stated the religious exemption bill for graduate students is opposed by the TPA Board. Dr. Edwards said the bill, sponsored by Senator Hensley and Rep DeBerry, bill has been deferred and does not directly affect psychologists.

Dr. Edwards said the problem with the mandatory suicide bill, discussed earlier, excludes professionals that need to be included. Dr. Edwards said TPA is strongly opposed to that bill which is sponsored by Senator Watson and Rep Howell. Dr. Edwards said a letter from the Board on suicide prevention and religious exemptions would have an impact on the legislative body.

Dr. Edwards stated the Sunset law has come in effect with Behavior Analysts and will be extended for two (2) years.

Dr. Edwards said a concussion bill passed regarding neuro-psychologists and appropriately trained physician assistants for youth sports injuries.

Dr. Edwards stated the employment by charitable clinics includes psychologists who want to volunteer with anyone other than the Red Cross and is being watched by the TPA.

Dr. Edwards said the telehealth bill requires insurance companies to reimburse telemedicine at the same rate they would an individual.

Ms. Morgan said during the break they received information that the suicide prevention bill is not being passed this session.

Ms. Wilkins said the reason the professional counselors oppose the religious exemption bill is that it is a violation of their code of ethics.

Dr. Mathis said the bill grew out of the code of ethics that was revised in 2016.

Dr. Edwards said that was a misunderstanding of the code of ethics.

Application File Review

Dr. Pazar said she reviewed the application of **Timothy Prosser, Psy.D.** who is applying for licensure as a Psychologist. Dr. Pazar asked the Board to review his application as she found inconsistencies in his application.

Upon discussion Dr. Loftis made a motion, seconded by Dr. Urbin, to send Dr. Prosser a letter requesting clarification of his APPIC internship, clarify if he worked as a Psychologists in his post-doc supervision while being licensed as a psychological examiner and behavior analyst, and to request two (2) letters of recommendation from psychologists who worked with him recently prior to allowing him to sit for the EPPP exam. The motion carried.

Correspondence

The Board reviewed a letter from **Michael Miesner** a licensed Clinical Psychologist in Virginia requesting information on becoming licensed in Tennessee as Virginia requires 1640 hours of postdoctoral supervision and Tennessee requires 1900 hours. Dr. Urbin recused himself and left the meeting room.

In reviewing Dr. Miesner's request, the Board noted that Dr. Miesner continued to work under supervision after becoming licensed six (6) months ago, and determined that he could use those hours worked toward the additional 260 hours he needs for meeting licensure requirements in Tennessee.

The Board asked that Dr. Miesner be informed that he can use the additional hours he worked under supervision in Virginia to meet the required postdoctoral hours.

Discuss and take action on renewal of the ASPPB contract regarding the EPPP exam

Ms. Wilkins stated the contract is a renewal of the previous contract with ASPPB and has not changed.

Dr. Loftis made a motion, seconded by Dr. Joslin, to approve renewal of the contract. The motion carried.

Discuss and take action if needed regarding rulemaking, hearings, rule amendments and policies

The Board discussed the temporary authorization to practice in Tennessee pursuant to T.C.A. §63-11-211(5) and Rule 1180-02-.05(3)(f).

Ms. Morgan said the Board addressed the issue at the October 2, 2014 minutes and determined that a supervisor would not be needed for an evaluation and to serve as an expert witness. Ms. Morgan said the Board asked that a policy statement be drafted but, due to changes in administration, was not done

Dr. Milliron said if a psychologist is coming in to testify he doesn't see a need for them to be supervised by a Tennessee psychologist, but if they are coming in to do an assessment on someone we would require them to have a supervisor to discuss concerns.

Ms. Morgan said the rule refers to supervision and the statute does not.

The Board requested Ms. Morgan to prepare a policy statement and Ms. Wilkins to prepare an application form for out-of-state psychologists coming into Tennessee to conduct evaluations and/or serve as expert witnesses.

Ms. Morgan said OGC drafted a lapsed license policy to make all Health Related Boards consistent. Ms. Morgan said T.C.A. §63-11-218 gives licensees sixty (60) days to reinstate, after which time the license is revoked. Ms. Morgan stated the \$100 fine for each month the license is in a lapsed license status is the same. Ms. Morgan said they are trying to streamline lapsed license discipline to make sure the discipline is the same for all professions, or as close as possible.

Upon review of the policy, Dr. Urbin made a motion, seconded by Dr. Mathis, to accept the policy as written. The motion carried.

With no other Board business to conduct, Dr. Loftis made a motion, seconded by Dr. Pazar, to adjourn at 12:05 p.m. The motion carried.

Adopted by the Board of Examiners in Psychology on this the 16th day of June, 2016.