



## Tennessee Board of Psychological Examiners Meeting

Thursday, June 15, 2023

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### MINUTES

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The Board meeting of the Tennessee Board of Psychological Examiners was called to order at 9:00 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Mark Fleming, Board President on Thursday, June 15, 2023.

Board members present: Mark Fleming, PhD, Board President  
Timothy Arentsen, PhD  
Neelam Jain  
Amy Nicholson  
John Tyler Overstreet  
Alicia Victory, PhD  
Susan Douglas, PhD  
Deborah Carter, PhD  
Amanda Spiess, Ex-officio Member

Board member(s) absent: Jennifer Winfree, Consumer Member

Staff present: Candyce Wilson, Board Director  
Elta Breen, JD, General Counsel  
Dale Hill, Board Administrator

#### APPROVAL OF MINUTES

The Board reviewed the March 16, 2023, Board meeting minutes. Mr. Overstreet motioned to approve the minutes. Dr. Alicia Victory seconded the motion and the motion passed.

#### RATIFICATION OF NEW LICENSEES

The Board reviewed the newly licensed and reinstated psychologist and psychological assistant licensees since the last Board meeting. Mr. Overstreet motioned to ratify all names on the list. Dr. Douglas seconded the motion and it passed.

The Board reviewed the newly licensed and reinstated behavior analyst licensees since the last Board meeting. Dr. Victory motioned to ratify all names on the list. Mr. Overstreet seconded the motion and it passed.

### **CONFLICT OF INTEREST POLICY**

Ms. Elta Breen, Board Attorney, reviewed the conflict-of-interest policy.

### **Disciplinary Order(s)**

#### **Consent Order(s)**

**K. Sproles, LBA (license #7992)** – Ms. Breen presented the signed consent order for Ms. Sproles. Mr. Overstreet motioned to accept the order. Ms. Spiess seconded the motion and it passed.

**D. McMillan, PhD (license #523)** – Dr. Timothy Arentsen and Neelam Jain recused themselves. Ms. Breen presented the signed consent order for Dr. McMillan. Mr. Overstreet motioned to accept the order with a modification to #11 to correct the written amount of one thousand dollars (not fifteen hundred) to reflect the numerical amount already written in the order. Dr. Victory seconded the motion and it passed.

### **UPCOMING CONFERENCE REQUESTS**

Mr. Overstreet motioned to send two (2) Board members, one (1) attorney and one (1) administrative staff person to the upcoming FARB conference in Chicago, IL. Dr. Carter seconded the motion and it passed.

Mr. Overstreet motioned to send four (4) people including board members, attorneys, and staff members to the upcoming ASPBB Annual Conference in Cleveland, OH. Dr. Victory seconded the motion and it passed.

### **LEGISLATIVE UPDATE**

Grayson Carter, with the Office of Legislative Affairs, presented the following 2023 legislative session updates.

#### **Noteworthy Health-Related Legislation**

- The Department of Health’s administration bill successfully extended current opioid prescription protections that were put into place in 2018 under the Tennessee Together Act.
- The Department of Health was extended to June 30, 2027, following an audit and subsequent sunset hearings.
- Multiple boards administratively attached to the Department of Health were extended by the legislature following audits and subsequent sunset hearings.

#### **Non-Health Related Legislative Activity of Note**

- June 19th is now designated as a state holiday for Juneteenth.
- State employees are authorized to use sick leave from a sick leave bank to care for a sick minor child of the employee.
- State employees must be provided six paid weeks of leave for the birth of the employee’s child or because of the employee’s adoption of a child.
- “Send Me” is now an additional state motto.
- The legislature passed an extensive transportation modernization act.

- The legislature passed a teacher paycheck protection act that, among other things, raises the minimum teacher salary to \$50,000 by 2026.
- Law enforcement officers and the district attorney general’s office may extend criminal immunity to persons who are experiencing a drug overdose and who are seeking medical assistance.

### **Pertinent Public Chapters**

Public Chapter No. 1—SB1/HB1—Johnson/Lamberth

This law prohibits a healthcare provider from knowingly performing or offering to perform on a minor, or administer or offer to administer to a minor, a medical procedure if the performance or administration of the procedure is for the purpose of enabling a minor to identify with or live as an identity inconsistent with the minor’s sex. This bill does not prohibit such medical procedure if the performance or administration is to treat a minor’s congenital defect, precocious puberty, disease, or physical injury or the medical procedure began prior to the effective date of this act and concludes on or before March 31, 2024. This law also prohibits a person from knowingly providing a hormone or puberty blocker by any means to a minor if the provision of the hormone or puberty blocker is not in compliance with this bill. This bill is effective on July 1, 2023.

Public Chapter No. 9—SB51/HB217—Roberts/Ragan

This law extends the professional art therapist advisory committee to June 30, 2024.

Public Chapter No. 10—SB52/HB218—Roberts/Ragan

This law extends the Psychology Interjurisdictional Compact Act to June 30, 2031.

Public Chapter No. 48—SB11/HB2—Johnson/Zachary

This law extends certain provisions within the code regarding Covid-19 established during the 2021 Special Session. This bill was effective on March 21, 2023.

Public Chapter No. 55—SB680/HB895—Reeves/Hurt

This law clarifies that the Medical Assistance Act of 1968 does not require a vendor, healthcare provider, or telehealth provider group that provides healthcare services exclusively via telehealth to have a physical address or site in this state in order to be eligible to enroll as a vendor, provider, or provider group for that program. This law defines telehealth provider as two or more healthcare providers that share a common employer and provide healthcare services exclusively via telehealth. This law was effective on March 21, 2023.

Public Chapter No. 91—SB454/HB609—Watson/Hawk

This law authorizes family leave insurance to be written as an amendment or rider to a group disability income policy or life insurance policy, included in a group disability income police or life insurance policy or a separate group policy purchased by an employer. Under this law, family leave insurance means an insurance policy issued to an employer related to a benefit program provided to an employee to pay for a percentage or portion of the employee’s income loss due to the birth or adoption of a child by the employee, placement of a child with the employee for foster care, care of a family member of the employee who has a serious health condition, or status of family member of the employee who is a service member on active duty or has been notified of impending duty. This law will be effective on January 1, 2024.

Public Chapter No.114—SB255/HB74—Johnson/Lamberth

This law changes the terms "general education development credential," "high school equivalency test," and variations of the terms to "high school equivalency credential” as referenced throughout the code. This law also replaces any references in code from GED(R) or HiSET(R) classes, coursework, testing, or

services with the phrase “adult education programming to include preparation and testing toward obtaining a high school equivalency credential” throughout the code. This law is effective on July 1, 2023. *This was a Department of Labor and Workforce Development legislative initiative.*

Public Chapter No.156—SB40/HB206—Roberts/Ragan

This law extends the Department of Health to June 30, 2027. This law was effective on April 17, 2023.

**Public Chapter No. 173—SB953/HB690—Walley/Martin**

This law creates authorizes the Board of Psychology to designate a person who has held a valid license or certificate in another state to practice psychology for at least 10 years within the last 15 years as a “health services provider” if the previous license and certification (1) required training that is generally equivalent to certain licensing standards, (2) has never been the subject of disciplinary action, and (3) allowed the licensee to engage in practice as a health services provider in psychology in the other state. **This law authorizes the Board of Psychology to pursue emergency rules during the rule-making process.** For the purpose of promulgating rules, this law was effective on April 17, 2023. For all other purposes, this law takes effect January 1, 2024.

Public Chapter No. 188—SB277/HB325—Johnson/Lamberth

This law extends legislation enacted in 2018 to preserve opioid prescription limitations for acute care. In addition, this law exempts individuals who had recent cancer treatment from this prescription limitation. “Recent cancer treatment” is defined as six months following the end of an active cancer treatment. This law creates an exception for informed consent where a healthcare practitioner who issued the initial prescription does not have to obtain and document informed consent, if the subsequent prescription is for the same opioid and for the same episode of treatment. Outside of this exception, informed consent must be updated periodically. This law also requires the Commissioner of the Department of Health to provide a letter, in consultation with the health-related boards, no to certain elected officials that includes information on the impact and the effects of this legislation in each even-numbered year. This law was effective on April 24, 2023. *This law was a Department of Health legislative initiative.*

Public Chapter 190—SB350/HB294—Campbell/Freeman

This law creates the “Save Tennessee Students Act” and requires public institutions of higher education to include, among other thing, the telephone number of the suicide and crisis lifeline on student identification cards for students enrolled in the institution. This law takes effect July 1, 2023.

Public Chapter No. 199—SB672/HB1051—Reeves/Vaughan

This law authorizes a qualified advance practitioner to issue a certificate of need in support of hospitalization for emergency diagnosis, evaluation, and treatment. A qualified advance practitioner is an individual working in collaboration with a licensed physician and who is a nationally certified psychiatric-mental health advanced practice nurse or physician assistant with additional qualifications in psychiatry. The admitting hospital or treatment resource may rescind the certificate of need if a licensed physician or other qualified professional in examining the patient determines that the patient no longer meets admission criteria. Additionally, this law authorizes a licensed physician who is a board-certified psychiatrist to execute a certificate of need in support of hospitalization for a patient’s admission without a second certificate of need in support of hospitalization. This law takes effect July 1, 2023.

Public Chapter No. 201—SB721/HB498—Massey/Martin

This law exempts a patient who is receiving an initial behavioral health evaluation or assessment from the requirement from an in-person encounter between the health care service provider, the healthcare services provider's practice group, or the healthcare system and the patient to be within sixteen months prior to the interactive visit. This law also authorizes a physician assistant who is authorized to prescribe drugs and

who provides services solely via telehealth to arrange for chart review by a collaborating physician via HIAA-compliant electronic means. This law was effective on April 24, 2023.

Public Chapter No. 244—SB1392/HB1213—McNally/Sexton

This law makes changes to the “Tennessee Right to Shop Act” and changes the structure of certain insurance incentives and out of pocket payments. This law takes effect July 1, 2023.

Public Chapter No. 254—SB267/HB315—Johnson/Lamberth

This makes changes to the allowable number of beds in private for-profit and private not-for-profit intermediate care facilities for individuals with intellectual disabilities. This law takes effect on April 28, 2023. *This was a Department of Intellectual and Development Disabilities legislative initiative.*

Public Chapter No. 285—SB1237/HB306—Hensley/Bulso

This law requires, in connection with an interscholastic athletic activity or event where membership in the TSSAA (Tennessee Secondary Athletic Association) is required, a student enrolled in a private school in this state to participate in an athletic activity or event only in accordance with the student’s sex as defined in code. This does not prohibit a student whose sex is female from participating on a team designated for male students if the school does not offer a separate team for female students in that sport. This law was effective on April 28, 2023.

Public Chapter No. 300—SB551/HB448—Lowe/Davis

This law requires governmental entities to provide a period of public comment for public meetings but authorizes the governmental entities to place reasonable restrictions on the period for public comment. This does not apply to a meeting of a governing body, or a portion thereof, where the governing body is conducting a disciplinary hearing or a meeting for which there are no actionable items on the agenda. This takes effect July 1, 2023.

Public Chapter No. 306—SB924/HB577—Rose/Parkinson

This law adds as an enhancement factor that can be considered during sentencing if a defendant has been convicted of aggravated assault or attempted first degree murder on the grounds or premises of a healthcare facility. Healthcare facility is defined as a hospital licensed under title 33 or 68. This law takes effect July 1, 2023.

Public Chapter 313—SB745/HB883—Helton-Haynes/Briggs

This law specifies that terminating an ectopic or molar pregnancy does not constitute a criminal abortion. This law removes the current affirmative defense in law and instead provides that it is not an offense of criminal abortion if the abortion is performed or attempted by a licensed physician in a licensed hospital or ambulatory surgical treatment center and certain conditions are met. This law also requires the Department of Health to collect reports submitted under this law and report quarterly the number of abortions performed in this state to certain individuals in the executive and legislative branches no later than January 1, April 1, July 1, and October 1 of each year. This law is effective April 28, 2023.

Public Chapter No. 316—SB1426/HB1004—Roberts/Darby

This law requires an appointed member of a governing body for a state entity to serve in such capacity until the member's successor is duly appointed and qualified. Under this, an appointed member of a board, commission, or other governing body for a state governmental entity may be removed by the member's appointing authority with or without cause. A vacancy created by the removal of a member must be filled by the appointing authority in the same manner as the original appointment. This law also creates an advisory council on state procurement. This law was effective on April 28, 2023.

Public Chapter No. 337—SB269/HB317—Johnson/Lamberth

This law designates June 19th as a new official state holiday for Juneteenth. This law was effective on May 5, 2023, and applies to June 19, 2023. *This was one of Governor Lee's legislative initiatives.*

**Public Chapter No. 353—SB1443/HB727—Roberts/Fritts**

This law requires an LEA to obtain the written, informed, and voluntary signed consent of a student's parent or legal guardian, or the student if they are 18 years of age or older, before the student participates in a survey, analysis, or evaluation. A parent or legal guardian who wishes to excuse the student from participating in health screenings as part of a coordinate school health program must submit a request in writing to the school's nurse, instructor, school, counselor, or principal. As used in this law, "health screening" means vision, dental, blood pressure, and hearing screenings. This law makes other changes regarding a student's receiving of instruction of sexual orientation curriculum or gender identity curriculum or a student's membership of a club or organization. This law is effective July 1, 2023.

**Public Chapter No. 379—SB0365/HB0355—Massey/Alexander**

This law requires that a health benefit plan that provides coverage for a screening mammogram must provide coverage for diagnostic imaging and supplemental breast screening without imposing a cost-sharing requirement on the patient. This law is effective 90 days after May 11, 2023.

**Public Chapter No. 395—SB0666/HB0885—Reeves/Hawk**

This law creates the Prior Authorization Fairness Act and, among other things, establishes processes for prior authorization requests and appeals of adverse determinations. For purposes of rulemaking, this law was effective May 11, 2023. For all other purposes, this law is effective January 1, 2025, unless otherwise specified within the Act.

**Public Chapter No. 399—SB1458/HB0983—White/Sexton**

This law requires local education agencies (LEAs) to provide licensed employees of the LEA 6 paid workweeks after a birth or stillbirth of the employee's child or employee's adoption of a newly placed minor child. This law is effective May 11, 2023, and applies to leave taken on or after that date.

**Public Chapter No. 423—SB0378/HB0403—Briggs/Lamberth**

This law creates the regulation of the production and sale of hemp-derived cannabinoids, including products known as delta-8 and delta-10 under the Department of Agriculture and the Department of Revenue. The sections of this law have varying effective dates, but this law is ultimately effective July 1, 2024.

**Public Chapter No. 438—SB102/HB158—Gardenhire/Zachary**

This law prohibits an LEA, public charter school, or public institution of higher education from requiring an educator or other employee of the LEA or public charter school to complete or participate in implicit bias training or take an adverse employment action against them for failure or refusal to complete or participate in implicit bias training. "Implicit bias training" means a training or other educational program designed to expose an individual to biases that the training's or educational program's developer or designer presumes the individual to unconsciously, subconsciously, or unintentionally possess that predispose the individual to be unfairly prejudiced in favor of or against a thing, person, or group to adjust the individual's patterns of thinking in order to eliminate the individual's unconscious bias or prejudice. This law took effect May 17, 2023.

**Public Chapter No. 442—SB219/HB271—Jackson/Hicks**

This law adds an additional level of practice under the Board of Examiners in Psychology to include certified psychological testing technician. A person practices as a "certified psychological testing technician" within the meaning of this chapter when the person claims to be a certified psychological testing technician or renders to individuals or the public for remuneration any service involving the

application of recognized principles, methods, and procedures of the science and profession of psychology and only under the supervision of either the psychologist or senior psychological examiner employing the certified psychological testing technician or the employing community mental health center or state governmental agency. Any and all work performed by a certified psychological testing technician is supervised by a psychologist or senior psychological examiner as determined by the board. This law details the requirements for licensure for a certified psychological testing technician. The Board is authorized to promulgate rules, effective immediately. This law takes effect January 1, 2024.

Public Chapter No. 448—SB466/HB1269—Rose/Cochran

This law provides that a teacher or other employee of a public school or LEA is not required to use a student's preferred pronoun when referring to the student if the preferred pronoun is not consistent with the student's biological sex. Under this law, a teacher or other employee of a public school or LEA is not civilly liable for using a pronoun that is consistent with the biological sex of the student to whom the teacher or employee is referring, even if the pronoun is not the student's preferred pronoun. Under this law, a teacher or other employee of a public school or LEA are not subject to adverse employment action for not using a student's preferred pronoun if the student's preferred pronoun is inconsistent with the student's biological sex. This law took effect May 17, 2023.

Public Chapter No. 477—SB1111/HB1380—Bowling/Ragan

This law creates the “Mature Minor Doctrine Clarification Act.” This act prohibits a healthcare provider from providing a vaccination to a minor unless the healthcare provider first receives informed consent from a parent or legal guardian of the minor. The healthcare provider must document receipt of and include in the minor's medical record proof of prior parental or guardian informed consent. This law also requires written consent from a parent or legal guardian before providing a minor with a COVID-19 vaccine. Additionally, this law prohibits an employee or agent of the state to provide, request, or facilitate the vaccination of a minor child in state custody except when certain situations apply. This law was effective May 17, 2023.

Public Chapter No. 486—SB1440/HB239—Roberts/Bulso

This law defines “sex” in code to mean a person's immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person's biological sex. “Evidence of a person’s biological sex” includes, but is not limited to, a government-issued identification document that accurately reflects a person's sex listed on the person's original birth certificate. This law takes effect on July 1, 2023.

***Please note that these are high-level overviews of each public chapter. They do not include every detail or provide all bill information. Please review the text of the bill in its entirety at your own discretion. If you have any questions or need further clarity, please reach out to your attorney.***

In reference to Public Chapter 173, the Board opted to keep the 1900-hour requirement in their rules even though the requirement is coming out of the statute. Dr. Douglas motioned to that affect. Dr. Victory seconded the motion and it passed. This Public Chapter also makes a pathway for applicants by reciprocity from another state.

Dr. Victory opened discussion regarding California reciprocity applicants who do not have the full 1900 hours. There was discussion on how the Board could obtain proof of equivalency and if the form of attestation was enough proof. Dr. Pamela Auble, with TPA, commented that this information was already provided when they were licensed in California. Mr. Overstreet suggested this may be a matter for a taskforce in another forum.

It was decided that the Boards attorney, Ms. Breen, Boards Director, Ms. Wilson, and one (1) appointed Board member would work together on the draft emergency rules.

Dr. Victory nominated Dr. Fleming to work with Ms. Breen and Ms. Wilson on the PC173 emergency rules. This was seconded by Mr. Overstreet and it passed.

Dr. Carter nominated Dr. Arentsen to work with Ms. Breen and Ms. Wilson on the PC442 emergency rules. This was seconded by Dr. Douglas and it passed.

Ms. Breen suggested she will request an emergency meeting be scheduled when the Board is ready to vote on the proposed rule revisions and that emergency rules do not require a rule making hearing. On January 1, 2024, this law goes in effect and once approved the emergency rules will be effective for 180 days with regular rule revisions to immediately follow.

### **CONTESTED CASE HEARING @ 10:30AM CT**

Ms. Elta Breen, Board Attorney, represented the Board in the case against Julie Dodd, PhD.

After hearing from both parties and witnesses, the Board concluded with approving a final order. In this final order, it states Dr. Dodd worked on a lapsed license for at least one (1) day of the month for eleven (11) months from September 2020 to July 2021. The final order imposed a reprimand on her license and required civil penalties and case costs. This action will be reported to the National Practitioner Databank.

### **DISCUSSION ON CONSUMER MEMBER VACANCY**

The Board discussed concerns with their being a vacancy on their Board. Ms. Breen informed the Board members that the Governor's office is aware and that the application to apply is available to on the website and can be shared should anyone know of someone who may be interested in applying for the consumer member position. Mr. Overstreet recommended the National Alliance of the Mentally Ill may be able to nominate someone to the Governor's office. The Board requested an update at their next meeting.

### **PUBLIC COMMENT**

There were no public comments.

The meeting adjourned.