



STATE OF ARIZONA
BOARD OF PSYCHOLOGIST EXAMINERS
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**BOARD OF PSYCHOLOGIST EXAMINERS
LEGISLATIVE COMMITTEE
REGULAR SESSION MINUTES**

**August 26, 2020
9:00 a.m.
Held virtually via Zoom**

1) CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners Legislative Committee was called to order by Ms. Shreeve, Board Chair, at 9:02 a.m. on August 26, 2020. No Executive Sessions were held.

2) ROLL CALL

Legislative Committee Members Present

Tamara A. Shreeve, MPA, Co-Chair
Bob Bohanske, Ph.D., FNAP, Co-Chair
Bryan Davey, Ph.D., BCBA-D
Adi Dynar, Esq.
Mathew A. Meier, Psy.D.

Others Present

Phil Barry, Ph.D. (AzPA)
Kyle Lininger, BCBA (AzABA)
Carey Beranek, BCBA (AzABA)

Staff Present

Heidi Herbst Paakkonen, Executive Director
Jennifer Michaelson, Deputy Director
Krishna Poe, Programs & Projects Specialist

Assistant Attorney General

Jeanne Galvin, Esq.

3) ELECTION OF COMMITTEE CHAIR FOR 2020-2021

Ms. Shreeve requested self-nominations to serve as Chair of the Committee.

MOTION: Dr. Bohanske moved to appoint Ms. Shreeve and himself as Co-Chairs of the Committee. Dr. Meier seconded the motion.

VOICE VOTE: The motion carried by a 5-0 vote.

4) DISCUSSION, CONSIDERATION AND POSSIBLE ACTION CONCERNING POTENTIAL PROPOSED LEGISLATIVE CHANGES BEFORE THE 2021 FIFTY-FIFTH ARIZONA STATE LEGISLATURE, FIRST REGULAR SESSION

i. Revisit the proposed changes from HB 2224 psychology board; licensure; fingerprinting

Ms. Herbst Paakkonen advised the Committee that in spite of earning strong support through the 2020 legislative session, this bill failed to pass due to the early adjournment of the session. She also reminded the Committee that the bill consisted of establishing fingerprint clearance requirements for

psychologists and behavior analysts (for both new and renewal applications); some language establishing that if supervised experience was obtained by behavior analyst applicants in a state that licenses behavior analysts at the time the experience was acquired, the supervisor must be licensed in the state where the trainee services were provided; and the accommodative language for former students of Argosy University who due to its closure are unable to meet the current residency requirement for licensure in Arizona. She noted that for the last modification, given that it was proposed in session law, the effective dates would likely need adjusting in a new bill.

The Committee acknowledged that the fingerprint clearance requirement would bring the Board on par with most other regulatory boards that have established this requirement. The Committee also spoke in favor of continuing to identify strategies to accommodate the former Argosy students, and pursuing the behavior analyst supervisor licensure requirement change. The members noted there may be other issues to fold into the successor bill to HB 2224, and discussed the fact that securing a sponsor must wait until after the results of the general election are known (after November 3, 2020). At the suggestion that potential sponsors be approached in advance of the election, Ms. Herbst Paakkonen assured that this can be provisionally done.

The Committee members noted that the representatives of the Psychological Clinical Science Accreditation System (PCSAS) coalition have yet to reach out to the Board with its intentions to reintroduce its accreditation parity bill. The members discussed that including this change in the Board's bill could sabotage the entire bill given that the change has yet to earn adequate legislative support to pass.

As the proposed changes of HB2224 have been previously reviewed and approved by the Board, it was the consensus of the Committee that its recommendation would be to reiterate this support and reintroduce the proposed changes in 2021.

ii. Reconcile A.R.S. §32-2081 Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements; civil penalty where (H) and (I) are in conflict

Ms. Herbst Paakkonen explained that subsections of the statute appear to be in conflict in that (H) states the Complaint Screening Committee (CSC) must review all complaints, but given that (I) establishes the Board's summary suspension authority, there are instances where certain allegations and the ensuing investigation seem to warrant bypassing the CSC review in order to take emergency action. The discussion reflected that in the past several cases with serious allegations have detoured around the CSC and have been presented to the Board for summary suspension consideration. Ms. Galvin advised the Committee that the challenge with this discrepancy comes in the form of the statute language placing the responsibility for this decision on Board staff, with input from legal counsel and potentially the Chair, to determine when and whether it is appropriate to take a complaint directly to the Board versus to the CSC. She noted that incorporating clarifying language in (H) to indicate there is an exception to the required CSC review that is noted in (I) would make the process clear.

Ms. Herbst Paakkonen suggested any change made to A.R.S. §32-2081 would also need to be made to the behavior analyst statute (A.R.S. §32-2091.09).

MOTION: Dr. Davey moved to recommend clarifying the language in A.R.S. §32-2081 and to A.R.S. §32-2091.09 to clearly reflect potential summary suspension cases can be routed directly to the Board and do not require Committee review. Dr. Meier seconded the motion.

VOICE VOTE: The motion carried by a 5-0 vote.

iii. Address regulation of Independent Medical Examinations

Ms. Herbst Paakkonen reminded the Committee that staff and legal counsel were directed to begin identifying stakeholders to assemble for purposes of discussing the issue of seeking clearer authority for the board to investigate allegations of unprofessional conduct where an IME has been performed. She explained that she is seeking input from the Governor's office on this issue as proceeding without

knowing the Governor's position would be ill-advised. The Committee affirmed this is the appropriate approach.

The Committee reviewed the history of this issue and the Board's concerns relative to effectively protecting the public, recognizing the necessity of immunity from Board discipline. The Committee also brainstormed some potential strategies to seek a desired policy change while maintaining this balance. The members discussed the possibility of Board staff initiating the conversation with Industrial Commission staff, noting that the process of navigating that agency's statutes and rules and that language's impacts to other agencies needs to be considered. The members also discussed proposing language to the Board's statutes establishing authority to investigate IME performing psychologists for unprofessional conduct "notwithstanding any other law".

MOTION: Ms. Shreeve moved to direct staff to press ahead to obtain input from the Governor, initiate conversations with the Industrial Commission, and begin arranging conversations with other stakeholder groups. Mr. Dynar seconded the motion.

VOICE VOTE: The motion was approved by a 5-0 vote.

iv. Address the status of individuals who have completed post-doctoral training requirements, continue to work as psychology associates, but remain unlicensed

Ms. Herbst Paakkonen stated that during the July 9, 2020 meeting the Board discussed the fact that applicants for licensure who have completed their professional supervised training experience, but who have not obtained licensure as they have not achieved a passing score on the EPPP, continue to work as psychology associates and therefore are not regulated by the Board. She commented that the supervisor must comply with the statutes that relate to this role.

The Committee discussed the gray area that ensues when an individual isn't under the Board's authority. The members also discussed the challenges associated with attempting to draw these individuals under the Board's regulatory umbrella, noting that when unlicensed persons commit title violations the Board can take some level of action to curtail that activity in an effort to protect the public. The Board acknowledged there may be opportunities to encourage more education on the topic of the supervisory responsibilities licensees assume.

The Committee members agreed by consensus to not formulate any recommendations to the Board on this subject at this time.

v. Address telepractice

Ms. Herbst Paakkonen called to the Committee's attention the compilation of the Arizona statutes and the Board's administrative rules that address telepractice. The matter is on this agenda in the event the Committee wishes to propose any changes to the statutes under its authority.

The members of the Committee discussed that Board rule establishes no more than 50 percent of supervision be provided through telepractice. They concurred the appropriate course of action is to bring a recommendation to the Board to modify or eliminate that restriction. This recommendation will need to be forwarded to the Rules Committee

The Committee noted that telepractice represents a major shift in delivery of care, and the outcomes data indicates it is highly effective. There was acknowledgement that efforts are underway by professional advocacy groups to encourage payers to continue reimbursing for services.

MOTION: Dr. Meier moved to forward the recommendation to eliminate this supervision restriction to the Rules Committee. Dr. Bohanske seconded the motion.

VOICE VOTE: The motion was approved by a 5-0 vote.

vi. Consider revision of A.R.S. §32-2075 Exemptions from licensure at (A) relating to school psychologists

Ms. Herbst Paakkonen reminded the Committee members that the Board recently heard a case where an unlicensed school psychologist performed independent evaluations on a contracted basis without any supervision from the school district. The members acknowledged that due to a shortage of school psychologists, some have chosen to engage in independent vendor contracts with various school districts so that students' needs can be met. The discussion reflected that where a school psychologist runs afoul of the Board' statutes is when a business entity is established for the purpose of performing independent evaluations when contacted by parents, and then submits the invoice for the evaluation to the school district. The Committee conversation reflected that the Board should not attempt to propose any changes that would further limit students' access to psychological services given the shortage of professionals throughout the state.

The Committee reviewed the statute and noted where the language is vague. Ms. Galvin advised that a substantive policy statement may be an effective solution if the Board can arrive at interpretations of the language that is less than clear.

Acknowledging the complexity of this issue and its many implications, the Committee directed staff to put this matter on a future meeting agenda of the Board to discuss appointment of members with subject matter expertise to explore the issue with the essential stakeholders.

vii. Other

No additional topics were suggested or discussed.

5) DISCUSSION, CONSIDERATION AND POSSIBLE ACTION CONCERNING THE ARIZONA PSYCHOLOGICAL ASSOCIATION'S LEGISLATIVE PROPOSAL ESTABLISHING PRESCRIPTIVE AUTHORITY FOR PSYCHOLOGISTS

Dr. Phil Berry advised the Committee of AzPA's intention to introduce a bill in either the 2021 or (more likely) the 2022 legislative session to expand the scope of practice for qualifying psychologists to have prescriptive authority. AzPA is working with the APA to obtain a grant to pursue this policy change, and having a letter of support from the Board would be a valuable addition to the application. Dr. Berry noted he has supplied a copy of the model language for the Committee and the Board's review.

The Committee asked who would be responsible for regulating psychologists with prescriptive authority. Dr. Berry indicated that decision has not yet been made. He also advised the Committee that the letter of support can be submitted after the grant due date.

The Committee requested Dr. Berry draft the letter of support for the Board's consideration, to which he agreed. Dr. Berry indicated the grant support would be to engage a dedicated lobbyist to pursue the expansion of practice scope. Additionally he described the advocacy efforts and stakeholder discussions in which the AzPA members have been engaged in recent years.

Ms. Herbst Paakkonen spoke to the implementation costs associated with regulating this expansion, and advised that a planning process needs to be established and followed in order to ensure the agency is ready for the additional responsibility

6) NEW AGENDA ITEMS FOR FUTURE MEETINGS

No items were suggested.

7) ADJOURNMENT

MOTION: Dr. Meier moved to adjourn the meeting. Dr. Bohanske seconded the motion.

VOICE VOTE: The motion was approved by a 5-0 vote. The meeting adjourned at 11:50 a.m.