

**BOARD OF PSYCHOLOGY**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by § 92-7(b), Hawaii Revised Statutes (HRS).

Date: December 14, 2018

Time: 1:30 p.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Present: Sherry Sutherland-Choy, Psy.D., APRN-Rx, Chairperson  
Marty Oliphant, Vice Chairperson  
Rosemary Adam-Terem, Ph.D., Member  
Lisa Chun Fat, Member  
Jill Oliveira Gray, Ph.D., Member  
Don Pedro, Psy.D., Member  
Christopher Fernandez Executive Officer (“EO”)  
Ahlani K. Quiogue Acting Supervising Executive Officer (“ASEO”)  
Daniel Jacob, Esq. Deputy Attorney General (“DAG”)  
Susan A. Reyes, Secretary

Excused: None.

Guest: Julie Takishima-Lacasa, Ph.D., Hawaii Psychology Association (“HPA”)  
Relley Araceley, EO

Call to Order: There being a quorum present, the meeting was called to order by Chairperson Sutherland-Choy at 1:33 p.m.

Approval of the Meeting Minutes: It was moved by Dr. Oliveira Gray, seconded by Dr. Adam-Terem, and unanimously carried to approve the minutes of the November 9, 2018 meeting as circulated.

Amendments to Agenda: DAG Jacob requested the Board to add presentation and discussion of recusal to the agenda. It was moved by Dr. Adam-Terem, seconded by Dr. Pedro, and unanimously carried to approve amending the agenda as noted.

Executive Officer's Report: a. Record of Candidates Examined: For the Examination for Professional Practice in Psychology ("EPPP")

Executive Officer Fernandez reported that during the period of November 18, 2018 – December 8, 2018, there were four candidates who took the EPPP exam; one passed and three failed.

**Vice Chairperson Oliphant arrived at 1:36 p.m.**

b. Definitions of "Supervision" and "Supervisor"

EO Fernandez briefed the Board on the results of his research having looked up information regarding the definitions of "supervisor" and "supervision" in five different states' regulations including California, Washington, Oregon, Texas and New York. What he found is common language in what a supervisor should have as far as credentials. However, he asked the Board if there was anything specific that they wanted to know, and what their concerns were so that he could narrow his search to include them for the next meeting. The Board said that they were concerned with how many individuals a supervisor may supervise.

Chair Sutherland-Choy stated that they were concerned with two things: 1) how many years does a supervisor have to be practicing in order to qualify to supervise, and 2) how many supervisees are allowed per supervisor.

Dr. Oliveira Gray asked, "How consistent are supervisors with submitting to the board who is under their direction?" This will be one way for the Board to know how many one person is supervising.

ASEO Quiogue said, for historical reference, typically a supervisor would provide a letter to the Board, saying they are going to be supervising an individual. It is just a statement provided by the supervisor, and filed in a binder with the Boards office. The supervisor will then inform the Board that they are no longer supervising the individual. However, it was a requirement specific to psychological assistants and not those in a doctoral program. She referred the Board to the Hawaii Administrative Rules §16-98-4, and to §465 3(2) in the Hawaii Revised Statutes ("HRS").

Chair Sutherland-Choy asked about the definition of psychological assistant and Dr Oliveira Gray cited HRS §465-3(2) in the exemptions section: "Any person who performs any, or any combination of the professional services defined as the practice of psychology under the direction of a licensed psychologist in

accordance with rules adopted by the board; provided that the person may use the term "psychological assistant", but shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology". She went on to state that she feels this would include interns, post-docs, and practicum students.

Chair Sutherland-Choy asked if Dr. Oliveira Gray's examples fit within the definition.

ASEO Quiogue reminded the Board that at that time, the Board decided that submission of letters informing the Board of intended supervisees only pertained to psychological assistants and not those in their doctorate program. However, if the Board would like to change this, the statutes or administrative rules will need to be changed.

Dr. Oliveira Gray stated that it is not very clear that this only pertains to psychological assistants.

ASEO Quiogue went on to state that when she had attempted to apply this to pre-doc interns, the pre-doc programs did not agree, including Tripler, as well as the program connected to the John E. Burns school of Psychology.

Dr. Pedro clarified that the program she was referring to is I Ola Lāhue.

ASEO Quiogue stated that this happened when she was the EO for the Board, and around 2010 or 2012. She had asked the program to provide a list of supervisees and their supervisors and it caused problems. This is when the Board decided that the letters of supervision were for psychological assistants, or those that help with psychological exams for example.

Dr. Pedro stated that administering psychological exams is part of the practicum.

ASEO Quiogue responded asking what about those that have a master's degree in psychology. They already obtained their degree and are merely working under a psychologist.

Dr. Oliveira Gray added that ASEO Quiogue seemed to refer to "tech".

Chair Sutherland-Choy also offered that some states do not provide a license for psychometric testers.

ASEO Quiogue agreed that this may have been the thinking behind this particular section since we do not offer a license at the master's level or whatever the case may be.

DAG Jacob asked how this conversation on supervision got started.

Dr. Oliveira Gray stated that the previous EO May Ferrar received a concerned letter discussing what was happening at the DOE regarding the number of supervisees per supervisor.

Dr. Pedro also stated that there are people hired at the DOE that do not have licenses and called "school-based psychologists", and in essence there may be one (1) district licensed psychologist and under that there may be all these other supervisors. Dr. Pedro said he believes that this is correct.

Dr. Oliveira Gray stated that this is related to billing and seems to tie into the ABA bill.

Dr. Pedro agreed that this has to do with who can bill for services.

After some discussion, the Board decided to table the conversation until Julie Takishima-Lacasa from HPA arrived since she may have more information to contribute to the conversation.

Added to the  
Agenda:

a. DAG's Presentation and Discussion on Recusals

DAG Jacob provided the Board information regarding how to know when to recuse oneself from Board decisions as a Board member. He said there are two instances which you must recuse yourself: 1) A business or undertaking in which the board or commission member has a substantial financial interest, and 2) A private undertaking in which the board or commission member is engaged as legal counsel, advisor, consultant, or representative. These are the only two instances that the law affirmatively requires you to recuse yourself. He suggested that the Board pay attention to the term "substantial" when deciding if they should recuse themselves. He also asked the Board to take quorum into consideration when deciding to recuse as well. He advised the Board to look over the applicants on the agenda when they receive their packets for the upcoming meetings, and to inform EO Fernandez if there are any questions or concerns for potential recusals prior to the board meeting. EO Fernandez can then contact him for support with the issue. This should help with knowing when to recuse oneself and whether there will be quorum to vote on applications or not, that is, in the instance that a Board member is required to recuse themselves from the review and

vote process of applications.

Executive Session: It was moved by Vice Chairperson Oliphant, seconded by Dr. Adam-Terem, and unanimously carried to enter into executive session at 2:05 p.m. to consider and evaluate personal information relating to individuals applying for professional or vocational licenses in accordance with HRS §92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, immunities and liabilities in accordance with HRS §92-5(a)(4).

#### EXECUTIVE SESSION

At 2:15 p.m., it was moved by Ms. Chun Fat, seconded by Dr. Oliveira Gray and unanimously carried to return to open session. The room was reopened to the public.

Applications:

- a. Examination
  - i. Elnur Gajiev
  - ii. Amber Gomes
  - iii. Noelani Rodrigues
  - iv. Kevin Tomita

It was moved by Dr. Pedro, seconded by Dr. Oliveira Gray, and unanimously carried to approve the applications of Drs. Gajiev, Gomes, Rodrigues, and Tomita pursuant to HRS § 465-7 and HAR §§ 16-98-8 and 16-98-9.

- b. Examination Waiver
  - i. Lisa Iguchi
  - ii. Katherine Oring
  - iii. Carlos Smith

It was moved by Dr. Adam-Terem, seconded by Ms. Chun Fat and unanimously carried to approve the applications of Drs. Iguchi, Oring, and Smith pursuant to HRS §§ 465-7 and 465-10, and HAR §§ 16-98-9, 16-98-16, 16-98-23, 16-98-25, and 16-98-30.

- c. Ratifications
  - i. Certificate of Professional Qualification
    - a. Takako Ball

It was moved by Vice Chairperson Oliphant, seconded by Dr. Oliveira Gray, and unanimously carried to ratify the application of Dr. Ball, pursuant to HRS § 465-7.

**Vice Chairperson Oliphant and ASEO Quiogue left the meeting at 2:18 p.m.**

New Business:            a.        Question regarding expert witnesses and temporary licensure

EO Fernandez provided the Board information regarding a previous Hawaii Board of Medicine decision on the subject of expert witnesses. The DAG for the Board of Medicine, at the time, commented that the question is whether testifying counts as practice. EO Fernandez echoed this by saying that it comes down to what a licensed psychologist is doing in the state. So, if an expert witness is coming into the state and merely providing testimony, the question is whether or not that is actually practicing psychology. EO Fernandez went on to cite the DAG of the Board of Medicine as concluding that there is no reason why an out of state expert should be required to comply with local professional licensure rules as a condition precedent to testifying as an expert, and that such provincialism should not be encouraged.

DAG Jacob asked the Board to review HRS §465-1, page 2 "Practice of psychology". He cited the definition's first sentence which states that the practice of psychology means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. From this DAG Jacob stated that it doesn't seem that expert witness testimony would fit. However, citing the rest of the definition, it seems that some of the activities an expert witness may perform might be included, for example evaluations. Because it is not clear in the statutes, he reminded the Board that they are not the decision-makers on this subject just yet and if they were to respond to an inquiry, it would be an informal opinion. He stated that there are avenues for individuals to ask the Board for a formal opinion including declaratory petition. He recommended that if the Board wishes to respond they would have to make it clear that no decision is being made and to direct the inquirers to their own legal aid or submit a declaratory petition.

**Julie Takishima-Lacasa arrived at 2:39 p.m.**

Dr. Oliveira Gray asked if the Board is required to provide a decision.

DAG Jacob stated that the Board could respond by stating there is not enough information to do so. He went on to state that the Board's response could be that it depends on the activities performed by the expert witness and without further information the Board cannot take action on the question.

Dr. Oliveira Gray asked if there was a temporary license mechanism already.

EO Fernandez confirmed there was.

DAG Jacob, after reviewing the statute, felt that it appears to be suited for such purposes. He concluded by asking the Board to decide on what to inform the inquirer.

It was moved by Dr. Oliveira Gray, seconded by Dr. Adam-Terem, and unanimously carried to have EO Fernandez respond to the inquiry with the support of DAG Jacob by informing the inquirer that it depends on the activities performed by the expert witness and without further information the Board cannot take action on the question.

**The following agenda item was taken out of order:**

b. Definitions of "Supervision" and "Supervisor"

It was motioned by Dr. Adam-Terem, seconded by Dr. Oliveira Gray, and unanimously voted to take the discussion on supervision and supervisors out of order.

EO Fernandez oriented Dr. Takashima-Lacasa to the conversation regarding supervisors and supervisees that had been taking place in order to return to the subject. He stated that part of the discussion was concerned about the number of supervisees a supervisor may supervise and that the Board had requested the last EO do research on whether other states have addressed this in their statutes. EO Fernandez stated that he provided them information, but that the Board was looking for further expertise on the subject.

Dr. Oliveira Gray clarified further that the Board received an email regarding people supervising a large number of supervisees as well as the ABA bill issue about the tiered supervision. From this there was a concern that the tiered model was going to cause the Board to change their statutes. The research done was looking at how the Board's statutes define supervision compared to other states, and also looked at what is being stated in the bill compared to that. The Board needed clarification about the bill and this is

where Dr. Takishima-Lacasa's expertise with the ABA bill comes in.

Dr. Takishima-Lacasa asked the Board if they reviewed ACT 205 and the tiered supervision model defined within.

The Board reviewed it when it was going through legislation last year, but stated they wished to hear a brief description for review.

Dr. Takishima-Lacasa explained that the latest model of tiered supervision in applied behavioral analysis is that the licensed provider will supervise a paraprofessional like a BCBA (Board Certified Behavior Analyst) or a psychology intern, who will then in turn supervise someone such as a teacher or parent/caregiver to provide ABA intervention to the client. The tiers are: 1) license holder; 2) paraprofessional; and 3) the person who will actually be implementing the intervention. This is the tiered model that is well established with lots of research and data over the years; specifically, in the field of behavior analysis. This tiered intervention model was included as an exemption in the behavioral analyst statute. But to specifically address the issue of whether or not a psychology statute needs to be revised, Hawaii Psychological Association position is that it should not be opened. The way that it is done in many other states is that it is within the scope of practice of the first tier, the licensed provider, to determine whether or not practicing and supervising within that tiered model is within their scope of training, education, and background. HPA advocated for this model and wanted it preserved for those who are trained in that model.

Dr. Oliveira Gray suggested that ABA's were trying to take the psychologists out of the model.

Dr. Takashima-Lacasa confirmed this by saying the ABA's wanted to take psychologist entirely out of the tiered model. She believes this was one of several areas the ABA's were attempting to restrict psychologist's scope of practice, because they believe that behavioral analysis should be done by a licensed behavior analyst.

Dr. Oliveira Gray asked if they were offering an alternate model of supervision?

Dr. Takashima-Lacasa responded that she did not want to speak on behalf of behavior analyst, but in reading their testimony and having conversations with them, they believe that, in order to practice and supervise behavior analysts, you should have a



certification that behavior analysts get. What they ideally would like to be law, is for a clinical psychologist to get additional training above and beyond their doctoral degree in order to practice behavior analysis in the state of Hawaii. They were successful in getting some of what they were advocating for in this bill. For example, psychologists are technically not allowed to call themselves behavior analysts. However clearly there are highly trained psychologists in our state who are behavior analysts.

Dr. Oliveira Gray agreed that psychologist do behavior analysis.

EO Fernandez asked Dr. Takashima-Lacasa if this concluded her information on supervision.

Dr. Takashima-Lacasa stated yes, but wanted to add that HPA has heard that the ABA's may be trying to introduce further legislation this session to continue to advocate for more restrictions on psychologists' scope of practice. She stated they will be back also to continue to protect their scope of practice.

EO Fernandez asked if the Board had any further questions regarding supervision.

Dr. Oliveira Gray suggested that the Board use the psychological assistant definition to include a paraprofessional person, that is those requiring supervision, then they would not have to change the statutes.

Dr. Takashima-Lacasa added that in developing their position, HPA consulted very closely with the experts on the national level at the APA, and worked closely with the legal team to define their position and crafting testimony around it. In their testimonies, they always included a couple of statements from the APA supporting their position where they advocated not having to change the psychology statute, as it has been done in other states, and is covered in the definition of their scope of practice. She asked individual board members if they agreed with HPA's position that licensing laws for psychologists do not need to be changed since they feel that a psychologist's scope of practice fits the tiered model.

Chair Sutherland-Choy stated she supports the position.

Dr. Adam-Terem stated that when the Board last discussed whether their scope of practice should be limited, and that they could not find a reason.

DAG Jacob asked if they had any other legislative priorities to mention today so that it can be added to the agenda for the next meeting.

Dr. Takishima-Lacasa said that the primary bill they will be advocating for is on prescriptive authority and it will be introduced by Senator Rosalyn Baker and on the House side, Representative Della Au Belatti and/or Representative John Mizuno.

EO Fernandez asked Dr. Takishima-Lacasa to call or email him at least ten days prior to the scheduled meeting to have an item added to the agenda as he can relay the request the Chair who will set the agenda.

Old Business:

a. EPPP2 – Latest information

Permitted Interaction Group (“PIG”) to report on progress of developing questions for the representative of the ASPPB regarding the EPPP2

EO Fernandez requested to defer this until the next meeting.

Delegation of Authority:

a. License reactivation applications

EO Fernandez requested to defer this until the next meeting.

b. License renewal/restoration applications

EO Fernandez requested to defer this until the next meeting.

Public Comments for items Not on the Agenda:

Comments from the public are accepted at this time on topics not specifically addressed elsewhere on the agenda. The public may comment by signing-in before speaking during the Public Comment section. The Board is precluded from discussing or acting on items raised by Public Comment that are not already on the agenda, except to decide whether to place the matter on the agenda of a future meeting. **Public Comment will be limited to 5 minutes per person at the discretion of the Chairperson.**

Next Meeting:

Friday, January 11, 2019  
1:30 p.m.  
Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Adjournment:            There being no further business to discuss, the meeting was adjourned  
by Chairperson Sutherland-Choy at 3:00 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Christopher Fernandez  
Christopher Fernandez  
Executive Officer

/s/ Susan A. Reyes  
Susan A. Reyes  
Secretary

CF:sar

12/18

- Minutes approved as is.
- Minutes approved with changes; see minutes of January 11, 2019