

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 11, 2020

Time: 1:30 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/99656392219>

Present: Sherry Sutherland-Choy, Chair
Marty Oliphant, Vice Chair
Don Pedro, Psy.D., Member
James Spira, Member, Ph.D., Member
Christopher Fernandez Executive Officer (“EO”)
Susan A. Reyes, Secretary
Daniel Jacob, Esq. Deputy Attorney General (“DAG”)
Karyn Takahashi, Secretary
Terry Akasaka-Toyama, Secretary

Excused: Jill Oliveira Gray, Ph.D., Member

Guests: None.

Call to Order: Chair Sutherland-Choy gave directional information for the public to participate if they wanted to provide a testimony. They were also informed that testimonies will be limited to five minutes.

Chair Sutherland-Choy confirmed by roll call that she, Vice Chair Oliphant, Drs. Pedro and Spira were present, and that Dr. Oliveira Gray was excused. With roll call complete Chair Sutherland-Choy brought the meeting to order at 1:59 p.m.

Approval of the Meeting Minutes: Chair Sutherland-Choy asked if there was any public person who wished to provide oral testimony on the agenda item; there were no public members present.

Chair Sutherland-Choy asked members if there were any amendments to the November 13, 2020. Members did not have any corrections and with a motion by Chair Sutherland-Choy, seconded by Dr. Spira, and by roll call vote members present voted unanimously to approve the minutes for November 13, 2020.

Executive Officer's Report:

a. Record of Candidates Examined: For the Examination for Professional Practice in Psychology ("EPPP")

EO Fernandez reported that from November 28, 2020 to December 8, 2020 there were (2) failed attempts at the EPPP exam and (1) pass.

b. DCCA Disciplinary Actions Through October 2020

EO Fernandez also reported that there were (2) disciplinary actions up to October 2020.

Adjudicatory Matters:

Chair Sutherland-Choy asked if there was any public testimony on the agenda item; there was none.

At 2:04 p.m., Chair Sutherland-Choy called a recess from Hawaii Revised Statutes ("HRS") Chapter 92 in order to enter in to Chapter 91, adjudicatory matters, in order to discuss:

In the Matter of Psychologist's License of Karen A. Tyson, Psy.D.; PSY 2019-16-L"

At 2:13 p.m., Chair Sutherland-Choy brought the meeting back to order and moved to the next agenda item.

Applications:

Chair Sutherland-Choy asked if there was any public testimony on the agenda item; there was none.

Executive Session:

Chair Sutherland-Choy announced that the Board will go into executive session at 2:19 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).

Chair Sutherland-Choy motioned to go into executive session, which was seconded by Vice Chair Oliphant, and unanimously carried by all members present.

EXECUTIVE SESSION

At 2:25 p.m., it was moved by Dr. Spira, seconded by Dr. Pedro, and unanimously carried to return to open session.

Vice Chairperson Oliphant, Drs. Spira and Pedro, and Chair Sutherland-Choy confirmed by roll call that they were present back in open session.

Applications:

a. Examination

i. Natalie Crommett

Upon a motion by Dr. Pedro, and seconded by Dr. Spira, the Board voted unanimously by roll call vote to approve the application of Dr. Natalie Crommett.

ii. Susan Nastase

Upon a motion by Dr. Spira, and seconded by Vice Chair Oliphant, the Board voted unanimously by roll call vote to defer the application of Susan Nastase pursuant to HRS §465-6, §465-7(a)(2).

b. Ratification(s)

ABPP Diplomate

a. Dug Lee

Certificate of Professional Qualification ("CPQ")

a. Jordana Binstock

National Register ("NR")

- a. Mary DeCruise
- b. Ruth Ann Herman
- c. Mirna Mejia

Upon a motion by Vice Chair Oliphant, seconded by Dr. Pedro, Board members present voted unanimously to approve the ratification list by roll call vote.

Application Procedures/Reviews, Board & Executive Officer Delegations, and Board Meeting Schedule for 2021

The Board to review application requirements and application review procedures, including, but not limited to the process for examination applicants, examination waiver applicants, and foreign graduate applicants. The Board will consider delegations to Board members, subcommittees, or the Executive Officer to address the impact of COVID-19 on the Board's responsibilities and the 2021 legislative session. The Board may re-consider adjusting its monthly meeting schedule.

Chair Sutherland-Choy asked if there was any public testimony on the agenda item; there was none. She then clarified that the Board would

first revisit the discussion on delegating the approval of certain applications to the Executive Officer outside of meetings.

EO Fernandez provided a report of research he did prior to the meeting with the help of DAG Jacob. He first cited HRS §436B-8:

(b) A licensing authority may delegate to the executive secretary, or other designee, any of its powers or duties as it deems reasonable and proper. The delegation of powers and duties by the licensing authority shall be made in accordance with the procedures set forth in section 436B-6(c). However, the licensing authority shall not delegate its discretionary functions resulting in a final decision, including but not limited to the following:

- (1) Adopting, amending, or repealing rules;
- (2) Ordering disciplinary action against a licensee, including the revocation, suspension, or imposition of conditions or fines; provided that summary suspensions may be delegated; and
- (3) Granting, denying, or otherwise conditioning license applications, unless the granting, denying, or conditioning of a license does not require the exercise of the licensing authority's expertise and discretion.

He reminded the Board that it has yet to determine whether Examination ("Exam App") or Examination Waiver Applications ("Exam Waiver App") require it to exercise its "expertise or discretion" as defined above in HRS §436B-8(b)(3).

EO Fernandez suggested the Board review the applications themselves and offered the following information to do so:

- Those who apply for licensure with Exam and Exam Waiver Apps have to provide multiple documents at a minimum, including:
 - 1) Application Form;
 - 2) Copy of diploma and transcripts;
 - 3) Training report (If degree program is not APA accredited);
 - 4) License verification (Exam Waiver Apps);
 - 5) Internship and postdoctoral experience verification forms;
 - 6) EPPP score (Exam Waiver Apps and some Exam Apps).
- #1: Discretionary knowledge is typically not required for the Application Form since it is primarily the personal information of the applicant. The exception would be if the applicant answers "yes" to any question #'s 3-5 on first page, which ask:
 - a) #3: Have you ever been denied a certificate or license to practice psychology?

- b) #4a: Has any license ever been suspended, revoked or otherwise subject to disciplinary action?
 - c) #4b: Are there any disciplinary actions pending against you?
 - d) #4c: Have you ever been disciplined for an ethical violation by a professional association or institution?
 - e) #5: Have you ever been convicted of a crime in any jurisdiction that has not been annulled or expunged?
- #'s 2, 4, and 6 do not require discretionary knowledge since the diploma, transcript, license verification(s), and exam score are just records.
 - #3: A training report does require the discretionary knowledge of the Board since the courses that an applicant enters must be evaluated by the Board to see whether each course meets the requirements set forth in Hawaii Administrative Rules ("HAR") Title 16 Chapter 98 Section 8 Training.
 - #5: It remains a question whether the internship and postdoctoral experience ("postdoc") verification forms require discretionary knowledge on the part of the Board. The current form requires the supervising psychologist to provide a brief summary of the duties of the supervisee.

EO Fernandez suggested that since discretionary knowledge is involved in evaluating #'s 1, 3, and 5, some Exam and Exam Waiver Applications would be excluded from the possibility of being approved by the EO by way of a Board delegation, including:

- Apps with "yes" answers, because the Board should be involved in evaluating this information as it relates to the practice of psychology as defined in HRS §465.
- Apps from applicants whose degree is from a regionally accredited school not an APA accredited program, because the applicant will need to submit a training report requiring the discretionary knowledge of the Board.

EO Fernandez stated that this leaves Exam and Exam Waiver Apps from applicants who completed an APA accredited program and have no "yes" answers on the first page of the Application Form. He then noted that there is still one thing the Board should discuss related to the internship and postdoctoral experience verification forms. That is, whether the review of the forms requires discretionary knowledge.

He cited HAR 16-98-89(b):

A person who holds a doctoral degree from an accredited institution shall have completed the following supervised experience:

- (1) An internship of at least one thousand nine hundred hours of supervised professional experience in the field of psychology under the supervision of:
 - (A) A licensed psychologist or a psychologist who holds a diplomat certificate in good standing issued by the ABPP;
or
 - (B) A person who hold a doctoral degree in psychology from an accredited institution who has had two years of postdoctoral experience³ in the work supervised; and
- (2) Has completed at least one thousand nine hundred hours of postdoctoral experience in the field of psychology. The experience shall be under the supervision of:
 - (A) A license psychologist; or
 - (B) A person who holds a doctoral degree in psychology or educational psychology from an accredited institution, granted prior to 1970, and is listed in the National Register of Health Service Providers in Psychology; or
 - (C) A person who is a diplomate, by examination, of the ABPP.

Based on the citation, the current verification forms ask the applicant to complete the top portion with their personal information, and asks the supervisor to complete the second part which asks for several things, including:

- The dates of the internship and postdoctoral experience using month and year.
- The length of the internship/postdoc in years and months;
- The hours of supervision;
- The name of the position the supervisee held, and the info of the internship/postdoc supervision cites including name and address;
- Whether the supervisor is a licensed psychologist, holds an ABPP diplomat certificate, or a person who holds a doctoral degree in psychology from an accredited institution with (2) years' experience in the subject being supervised, or is listed in the National Register of Health Service Providers in Psychology;

- Their notarized signature, State of Licensure and license #, school doctoral degree was received from, and contact information; and
- A brief summary of the duties that the applicant performed during their internship or postdoc.

EO Fernandez explained that while most of the information requested is directly supported by the rule subsection, what is not clear is whether the summary of duties is.

DAG Jacob stated that since HAR §16-98-8(b) clarifies that the internship and postdoc must be in the “field of psychology” that it would be appropriate to ask for the summary of duties.

With the clarification of the information above, the Board commenced discussion whether certain Exam and Exam Waiver Apps require Board discretion, specifically in reviewing the summary of duties by the supervisor attached to internship and postdoc verification forms by the supervisor.

Executive Session:

At 2:49 p.m., Chair Sutherland-Choy called for a motion to go into executive session 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).

Dr. Spira made the motion, which was seconded by Vice Chair Oliphant and unanimously approved by roll call vote by all members present. The Board then moved in to executive session.

EXECUTIVE SESSION

At 3:19 p.m., with a motion by Vice Chair Oliphant, seconded by Dr. Pedro, and unanimously voted by all members present by roll call vote, the Board moved back in to open session.

After it was clarified that Exam and Exam Waiver Apps may involve non-discretionary decisions leading to approval, specifically if the applicant:

- Graduated from an APA accredited doctoral program;
- Has never been denied a certificate or license to practice psychology;
- Has never had any license suspended, revoked or otherwise subject to disciplinary action, nor any pending disciplinary actions;
- Has never been disciplined for an ethical violation by a professional association or institution; or

- Has never been convicted of a crime in any jurisdiction that has not been annulled or expunged; and
- Whose internship and postdoc experience summaries of duties clearly show that the experiences were in the field of psychology as required by HAR §16-98-8(b)(1) and (b)(2).

Dr. Spira stated his support to delegate to EO Fernandez the ability to approve Exam and Exam Waiver Apps that do not require discretionary knowledge that the Board would otherwise be required to address. He added that he would also like to begin a discussion on specifying what is meant by the practice of psychology in terms of internship and postdoc in order to be in line with what the APA considers them to be.

Dr. Pedro concurred with Dr. Spira.

Vice Chair Oliphant clarified that the Board would be delegating the approval of non-discretionary Exam and Exam Waiver Apps, and not the discretion to approve them.

EO Fernandez confirmed that Vice Chair Oliphant was correct. Because HRS §436B-8(b)(3) clearly states that an EO or other designee cannot be delegated the authority to grant, deny, or condition a license if doing so requires the exercise of the Board's expertise and discretion.

Vice Chair Oliphant then stated that he also was in favor of delegating the authority as discussed to EO Fernandez.

Chair Sutherland-Choy stated she agreed as well.

With regards to the approval of Examination and Examination Waiver applications, and pursuant to the authority provided by HRS §436B-8, Dr. Spira made a motion to delegate to the Executive Officer the non-discretionary decision to approve said applications when the summary of duties attached to the Internship Verification and the Postdoctoral Experience Verification Forms clearly indicates the internship and postdoctoral experience were completed in the field of psychology. The Motion was seconded by Dr. Pedro, and unanimously approved by all members present in a roll call vote.

Next Meeting: Friday, January 8, 2021
1:30 a.m.
Virtual Videoconference Meeting -- Zoom Webinar

Adjournment: There being no further business to discuss, the meeting was adjourned by Chair Sutherland-Choy at 3:22 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

1/5/21

Minutes approved as is.

Minutes approved with changes; see minutes of 1/8/21.