

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: April 9, 2021

Time: 1:30 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/94026497172>

Present: Marty Oliphant, Vice Chair
Jill Oliveira Gray, Ph.D., Member
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”)
Stephanie Karger, Office Assistant (Technical Support)
Christine Dela Cruz, Office Assistant (Technical Support)

Excused: Sherry Sutherland-Choy, Chair

Guests: Francine Sousa
Rachel Lynch
Risé Doi

Call to Order: Vice Chair Oliphant 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.

Vice Chair Oliphant confirmed by roll call that he, Drs. Pedro, Oliveira Gray and Spira were present with Chair Sutherland-Choy excused. With roll call complete Vice Chair Oliphant brought the meeting to order at 1:38 p.m.

Vice Chair Oliphant asked if there was any public person who wished to provide oral testimony on the agenda item; there were none.

Review, Amend,
And Approval of:
Meeting Minutes:

a. March 5, 2021

- b. September 11, 2020
- c. October 9, 2020
- d. November 13, 2020

EO Fernandez stated that he needed approval for the minutes of March 5, 2021 and the approval of the ES minutes for September 11, 2020 and October 9, 2020. He further stated that the November 13, 2020 was for reference only.

Vice Chair Oliphant asked members if there were any amendments to these minutes.

Dr. Oliveira Gray requested the following amendments to the ES minutes for September 11, 2020 as follows:

- Page 4, 4th paragraph, 3rd line should read as:
“...going to be placedd on her license.”
- Page 4, 4th paragraph, 13th line should read as:
“One of the conditions was to have her assessed...”
- Page 6, 7th paragraph, 3rd line should read as:
“...submitted, they could not determine an evaluation.”

It was motioned by Vice Chair Oliphant, seconded by Dr. Pedro, and by roll call vote, members present voted unanimously to approve the minutes for March 5, 2021 and the ES minutes for September 11, 2020, with amendments and the ES minutes for October 9, 2020 as is.

Executive Officer's
Report:

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

EO Fernandez reported that from February 28, 2021 to March 27, 2021 there was (2) EPPP exam and both failed.

- b. DCCA Disciplinary Actions Through February 2021

EO Fernandez also reported that there were no disciplinary actions up to February 2021.

- c. ASPPB Announcements

- EO Fernandez stated that regarding the EPPP2 exam that there have been on-going concerns with what can be accessed as a national exam. ASPPB wanted to reduce

concerns on validity and test bias. There are issues with the EPPP2 skills and the assertion that it has not gone through appropriate validations. He does have calls from applicants approved to take the EPPP in Hawaii and wanted to know if we start requiring the EPPP2 and they fail the exam, will they be extended another two years to retake it. He informs them that they will not need to take the EPPP2 because when they were approved the EPPP2 was not required, until the Board deems otherwise. He went on to say that the statutes/rules state only the EPPP exam, and the Board will have to see whether the Enhanced EPPP would fit under the current language. Most of the concern is whether or not we are going to require the EPPP2.

- EO Fernandez said that ASPPB has a lot of committees and looking for volunteers. If the Board members were interested, to please let him know so he can contact them.
- EO Fernandez said that there is a house bill HR7105 that federally hired psychologists can provide services via telehealth to other VA centers or even their homes, and not necessarily not have to be at the site and they will not have to be licensed in the other jurisdiction if the other site is in another state. The VA is trying to catch up to a backlog of certain evaluations that have to happen or services to be rendered. They are looking to include contracted psychologists, so if a third party gets a contract with VA, then they will be able to do these services without a license in the other jurisdictions. This includes physicians, physician assistants, nurse practitioners and audiologists. ASPPB has tried to contact and discuss whether or not the contracted VA providers will fall under the VA employee exemption portability. He is still awaiting more information on this subject and will keep the Board updated on this.

Dr. Spira wanted clarification: Does a VA provider at the VA Island Health Care Center that is trying to provide services to a veteran in South Carolina, does this veteran in South Carolina have to be in the South Carolina VA federal property when the services are being delivered, or are you suggesting that the provider can be in Hawaii Kai, providing telehealth services to that veteran in their home in South Carolina.

EO Fernandez said that the announcement states that in 2018, the VA adopted the anywhere to anywhere regulation to increase telehealth services. It allows for VA health care providers, he assumes actually hired employees, psychologists to provide

services from anywhere to anywhere. This allowed services to be provided from their home office to a veteran's his or her home as well.

Dr. Spira said that must be a federal override for state laws.

EO Fernandez said that the idea is to increase portability of people's ability to practice and to help the VA with the backlog. In our statutes, there is an exemption for federally employed psychologists.

Dr. Spira said that he was very active in the VA prior to 2018 to try to find out how to deliver services to veterans in other states, because they were not able to be served sufficiently and they were trying for a more efficient way to do it. You can be licensed in any of the 50 states and still provide services while it is a federal patient and they are working on the federal facility. This is going beyond what was previously approved and the Board may need to broaden the statutes to allow for this.

EO Fernandez said that ASPPB is reaching out to leadership in the VA in order to understand the interpretation of HR 7105. To find out if the idea if these contracted psychologists not employed by the federal government will fall under that exemption. If HR7105 does mean to do this, a supremacy clause because it is a federal law, if this will supersede our statutes. He will keep the Board posted.

Vice Chair Oliphant asked if this is an approved or proposed resolution.

EO Fernandez said that it is going through legislation and has not be enacted.

Applications:

Vice Chair Oliphant asked if there was any public testimony on the agenda item; there was one raised hand from Francine Sousa.

Dr. Sousa said that she put in a new application last November and she received a letter to submit the summary of duties for her internship. She contacted her supervisor who immediately contacted and emailed the Board of Psychology. In January, they received confirmation of receipt and was under the impression that everything was on track and just waiting for approval. She has not received any updated status on her application process. She was advised to attend this meeting and provide testimony regarding this. She wants to know the status.

EO Fernandez apologized for the delay and stated that he had put in a request for the clerk in licensing branch to contact him with an update. He will try to contact him after today's meeting. The Board will be

meeting next month and if it is an administrative approval, something that the Board does not have to review, he could get the approval sooner. He said that when the applications are received by licensing branch, the clerk will do a preliminary review to make sure all the documents have been received. If there is a deficiency, such as hers, a letter is sent. At this time, he does not have any information about her application unless there is something that he needs to do on his end. So, when the documents have been sent in, the status is changed from "A3" a deficiency, to "E1" for the executive officer to review and prepare it for the Board's review.

Dr. Oliveira Gray asked if the process can take this long.

EO Fernandez said not necessarily, and there could be a lot of factors that could happen. It doesn't sound like it happened in this case, but there are times when the licensing clerk does not receive the document which makes it deficient, or they received the document and it is not the right one.

Dr. Pedro asked how we can rectify this so that Dr. Sousa does not have to wait any longer.

EO Fernandez said that he will contact the clerk and make the necessary efforts and get back to her within 5 business days. He is hoping that what he finds out will not delay her application so that it will be reviewed by the Board at the May 7, 2021 meeting.

Dr. Sousa said that she would appreciate it.

Dr. Oliveira Gray apologized to Dr. Sousa and also stated that this is not the only complaint regarding applications taking this long.

Vice Chair Oliphant thanked Dr. Sousa for coming on today and sharing her concerns and said that this will help with other applicants get through the process a little bit quicker. The executive officer is a man of his word and he will follow up and get you an answer right away.

Vice Chair Oliphant asked if there was any public testimony on the agenda item; there was one raised hand from Rachel Lynch.

Dr. Lynch said that back in January she requested to retake her exam that was good until 2022 and wanted to know if the Board will honor this.

EO Fernandez said that he had forwarded her information to the exam branch. ASPPB is contracted with Certemy to do the exam, which is a new relationship. He will need to follow up with exam branch because they will need to do a work order to request Certemy to authorize Dr. Lynch to retake the exam. Also, because she had contacted us and made good efforts to take the exam she will not need to reapply and will receive an extension of 2 years.

Vice Chair Oliphant thanked Dr. Lynch for coming to testify.

Executive Session: Vice Chair Oliphant announced that the Board will go into executive session at 2:23 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).

Dr. Spira motioned to go into executive session, which was seconded by Dr. Pedro, and unanimously carried by roll call vote.

EXECUTIVE SESSION

At 2:46 p.m., it was moved by Dr. Pedro, seconded by Dr. Oliveira Gray and unanimously carried by roll call vote to return to open session.

DAG Jacob left the meeting at 2:46 p.m.

Applications:

a. Board Review

Examination Waiver

- i. Anthony Papa
- ii. Nancy Bottorff

Upon a motion by Dr. Oliveira Gray, seconded by Dr. Spira, the Board voted unanimously by roll call vote to approve the applications of Drs. Papa and Bottorff, pursuant to HRS §465-7.

b. Ratification(s)

ABPP Diplomate

- i. Scott Edward

Upon a motion by Dr. Oliveira Gray, seconded by Dr. Spira, the Board voted unanimously by roll call vote to ratify the application of Dr. Edward, pursuant to HRS §465-7.

Supervision,
COVID-19, and
Telehealth:

The Board to continue discussion on the effects of the COVID-19 pandemic and the use of telehealth modalities on the supervision of psychological assistants, interns, and postdoctoral fellows, by licensed Psychologists.

Vice Chair Oliphant deferred this until the next meeting

Vice Chair Oliphant asked if there was any public testimony on the agenda item; there was none.

Administrative
Updates:

- a. The Board to review application forms, requirements, and review procedures.

EO Fernandez said that there is a new data base called Ho'ala. It requires a date of birth to complete the set up. Because the application does not have the date of birth, the clerks have to send out a letter requesting it, which causes a delay in the process of the applications. It was suggested that we revise our application to include the date of birth.

EO Fernandez also mentioned that there is another update to the form in regards to the confer date of the degree where it would only request the month and year and not the day, which has created problems in the past.

EO Fernandez wanted to also update our supervision verification, regarding the summary of duties.

Dr. Oliveira Gray wanted to make it easier for supervisors to complete. It would be more tedious for the person completing it and also for the Board to review. This will create delays in the process.

Dr. Spira likes the emphasis on insuring that people are performing the practice of psychology and not the field of psychology. He questions if it needs to be a separate form or can it be in a letter of instruction to the supervisor.

EO Fernandez said all of this still has to be discussed. These are just examples and he would like to get help from Drs. Spira and Oliveira Gray to put together and then brought back for the Board's decision.

- b. The Board will begin planning and preparing for rule revisions for Hawaii Administrative Rules §16-98.

Vice Chair Oliphant deferred this until the next meeting.

Next Meeting:

May 7, 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 3:00 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

4/12/21

☐ Minutes approved as is.

☒ Minutes approved with changes; see minutes of 5/7/21.