Meeting Minutes

January 25, 2019
Department of Health
310 Israel Road SE - Point Plaza East, Room 153
Tumwater, WA 98501

Board members present: Rachaud Smith, Psy.D., Vice-Chair
Florence Katz Burstein, Public Member
Janet Look, Ed.D.
Lezlie Pickett, Ph.D.
Brendon Scholtz, Ph.D.
Leslie Cohn, Ph.D.
Michelle Girosi, Ph.D.

Board members via telephone: Shari Roberts, Public Member, Chair
Ruby Takushi, Ph.D.

Staff members present: James Chaney, Executive Director
Stacey Saunders, Program Director
Joanne Miller, Credentialing
Jennifer Herbrand, Credentialing
Sara Kirschenman, Staff Attorney
Karen Diehm, Board Support

AAG Representation: Joyce Roper, Assistant Attorney General

Contact: Stacey Saunders, Program Director
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On January 25, 2019, the Examining Board of Psychology met at the Department of Health, 310 Israel Road SE – Point Plaza East, Room 153, Tumwater, WA 98501. Notice of the meeting was published on the psychology profession website and was sent out through the psychology GovDelivery.
Open Session

1. Call to Order – Rachaud Smith, Vice Chair
   1.1 Approval of agenda.
      1.1.1 Modification: switched #11 to #5, approved as modified.
      1.1.2 Discussion of how agendas are created, how subjects are placed, and who to contact.
   1.2 Approved the November 16, 2018 meeting minutes.
      1.2.1 Approved as is, one abstained

2. Election of Chair and Vice Chair – Rachaud Smith, Vice Chair
   Dr. Pickett provided hand out of issues facing the board (before nominations/vote) and Dr. Look thanked Shari for her work leading the board the last few years.
   - Chair nominations: Dr. Rachaud Smith and Dr. Brendon Scholtz were nominated. Five votes in favor of Dr. Smith, four votes in favor of Dr. Scholtz.
     NEW CHAIR: Dr. Rachaud Smith
   - Vice chair nominations: Florence Katz Burstein and Dr. Brendon Scholtz were nominated; Dr. Pickett was nominated and declined. Five votes in favor of Florence, four votes in favor of Dr. Scholtz.
     NEW VICE CHAIR: Florence Katz Burstein

3. Addressing Public Comment—Dr. Michele Giresi
   Dr. Giresi discussed the board’s response in a prior meeting to comments and a handout from a member of the public. There was no acknowledgement of the individual’s comments, handout, etc., by the board before moving on to the next agenda item. The board discussed options for recognizing comments from the public. Dr. Scholtz suggested the board educate visitors on what the board can and cannot do before public comments are heard. AAG Joyce Roper suggested a statement the Chair reads addressing what the board can and cannot do. Dr. Giresi volunteered to draft the written statement, which will then be reviewed by the department and the AAG.

4. Public Comment – Dr. Rachaud Smith, Vice Chair
   Dr. Samantha Slaughter and Dr. Lucy Homans from the Washington State Psychological Association spoke. Dr. Slaughter mentioned state bill 5054 on reciprocity in the behavioral health field, and wanted to know the board’s thoughts. James Chaney spoke in response. Dr. Look mentioned concerns and problems with PsyPACT and educational equivalency requirements as some states credential Masters-level clinicians as psychologists while Washington State requires a doctoral degree.

5. Psychologists supervising and training ABA techs—James Chaney
   Handout: January 15, 2019 WSPA letter from Dr. Dominika Breedlove
   Commentary: In July 2017, Washington State started regulating the Applied Behavioral Analysis (ABA) field. At the end of 2017, the department put out an interpretative statement on WAC 246-805-330(2)(a), Certified behavior technician—continuing supervision, which requires special credentialing to serve as an ABA supervisor. Both the ABA Association and WSPA disagree with the interpretive statement as both believe the WAC is not interpreting
the statute correctly, and the WSPA is asking for that to be fixed. Dr. Homans emphasized how seriously WSPA is taking this matter, but is not asking the board to do anything at this time. It is up to the Secretary to modify WAC 246-805-330(2)(a).

Dr. Pickett stated that psychologists are licensed professionals who are highly trained in behavior analysis and should not need another credential that will entail additional, extensive hours and funds to obtain. WSPA and James Chaney clarified it’s the supervision of Licensed Behavioral Analysts (LBAs) and Certified Behavior Technicians (CBTs) that is a concern. Psychologists can no longer supervise LBAs or CBTs, when they could before ABA was regulated. Dr. Homans is not aware whether this is affecting other professionals in addition to psychologists. Florence Katz Burstein requested data to let the board know if other professions have similar issues with ABA. WSPA is asking the department to clarify the wording/intent of WAC 246-805-330(2)(a) so it’s clear the rule does NOT exclude licensed psychologists from supervising LBAs or CBTs; James stated the process is a rules petition which anyone can file, other than department staff. Florence Katz Burstein volunteered to write the rules petition; Dr. Pickett, Dr. Scholtz, and AAG Joyce Roper will provide support (along with James Chaney as needed).

**Motion:** Put forward a rules petition to clarify (per above) 246-805-330; seconded; approved
AAG Joyce Roper recommended including all WACs listed in WSPA’s letter
**Amended Motion:** Florence Katz Burstein requested evaluation of WACs to see which need to be addressed, and putting forward a targeted rules petition to clarify those; seconded, approved

6. **Parameters of the Board’s Authority—Dr. Rachaud Smith**
   AAG Joyce Roper stated rule making must be consistent with statutory authority, and the board has broad authority. The most recent signed operating agreement was requested; the most recent agreement has not been signed, as there is still ongoing discussion. James said he can get it for the board. Dr. Scholtz requested clarification of the limitations on what the board can and cannot do in a written document. AAG Joyce Roper stated that she would get a matrix with information on what boards can do and their limitations. She will also try to get operating agreements from other boards and/or commissions for the board to review.
   - Side topic of ASPPB contract: updated board on amendment for Feb 2019 - Dec 2019, which DOH signed and sent to ASPPB; ASPPB is revising contract language for 2020 as EPPP2 will be optional.
   - 2nd side topic of HELMS: approximately $10/licensee, handout in packet
   - 3rd side topic of Governor’s state of the state speech and emphasis on behavioral health: James explained the primary focus is on facilities, it is not yet known what (if any) impact there will be on the board.

7. **Pro-Tem Appointments – James Chaney**
   **Motion:** Approve Dr. Freedman and Dr. Lloyd as pro-tems for 2019 calendar year (a 3rd name may be brought forward later for board to review); seconded, approved
8. Increase Examining Board of Psychology to 11 members—James Chaney
James explained increasing the number of board members requires a statutory change. Either
the board can submit a proposal to the department for consideration by the secretary as an
agency request for the 2021 legislative session, or an outside entity, like WSPA, can pursue
proposed legislation. The deadline for professions to submit proposed legislation for the
2020 legislation session is July 2019, which is not sufficient time. Furthermore, there is a
backlog of requests from other programs, offices, divisions, etc. within the department.
Florence Katz Burstein asked what the purpose is of increasing the board from nine to 11
members. James Chaney explained more members would address the issue of unavailability
for hearings. Currently, pro-tems are allowed to participate on hearing panels. James Chaney
will get information to the board on the steps to start the process.

9. Assistant Attorney General Update – Joyce Roper
No updates at this time.

10. Continuing Education – Jennifer Herbrand
Jennifer Herbrand explained her role and how the jurisprudence (JP) exam works, including
the multiple steps by different people in two offices. She also informed the board that taking
the JP exam as part of the credential renewal process would make the automated renewal
process a manual process; there would be no online renewal option. Psychologists have one
of the highest utilization rates of the online renewal option. If psychology license renewals
were to become fully manual, they would take more time.

Proposed either making JP exam a 100% pass rate or allowing applicants to attest to
completing the JP exam on their renewal form, with licensees randomly selected for both a
CE audit and JP exam verification. The board discussed the positives and negatives of each
option, including a current administrative rule requiring applicants who fail a written exam
twice to wait 60 days before retaking that exam.

The board asked how much additional staff time it would take if the renewal process became
a manual process. Jennifer stated an additional 50 hours per month. However, that is not
enough to hire more people and without hiring more people, processing time will increase.

Dr. Look brought up the impetus for wanting psychologists to retake the JP exam and asked
what DOH can do to help the board achieve this goal. No other profession requires taking JP
for renewals, but denturists are adding it with a required 100% pass rate.

Dr. Scholtz stated he’s comfortable with an attestation on the renewal and having it verified
during CE audits; also mentioned creating another JP exam with a 100% pass rate. Currently,
2% of licenses are audited for CE, which, at this time, the board is not increasing.

Motion: Renewal applications should include attestation the licensee completed the JP
requirement, and future CE audits will verify the JP exam was taken and passed. Seconded,
passed.
11. Notice of deficiency spreadsheet – Sara Kirschenman, Stacey Saunders
Sara Kirschenman and Stacey Saunders discussed the importance of having reviewing board members complete a deficiency spreadsheet for all license applications that are not approved. Sara Kirschenman explained when cases go to hearings, the program manager has to testify as to the board’s reasoning for finding an application deficient. Additionally, a deficiency spreadsheet makes it easier for the staff attorney/AAG to do their job by clearly and uniformly documenting the reasons an application was found deficient. Sara Kirschenman emphasized the form would save a lot of staff time and make it easier for everyone involved to do their job. Discussion ensued, and motion was brought to order.

**Motion:** To approve proposed deficiency spreadsheet form (subject to modifying document title to specify deficient applications); seconded; one opposed; approved.

12. WPHP, WRAMP, and psychological services – James Chaney
James Chaney reported he had looked into health care oversight of psychologists who are considered unable to practice safely and explained it would take a statutory change to switch from the current WRAMP program to WPHP. WPHP asked WSPA to take lead on introducing legislation, which WSPA declined to do at this time. As the board is interested in the psychological services WPHP offers and WRAMP does not, James Chaney also explored expanding the role of WRAMP to provide psychological services equivalent to what WPHP offers. First step is to establish the protocol for WRAMP before expanding the services provided. WRAMP does not have rules associated with their program; they are currently establishing administrative rules and then they can expand services provided. Currently, WRAMP is operating under an Operating Agreement with the department to provide services to covered professions. James Chaney will update the board as the process moves forward. Discussion on how any licensed psychologist ordered to do substance abuse treatment will default to WRAMP for monitoring (WRAMP is a monitoring program, not a treatment program.) Dr. Scholtz requested rules, statutes, other written regulations, etc. on the topic.

13. Options to verify psychologists with suspended/revoked licensees are not practicing
The board discussed concerns with monitoring compliance with board orders, including situations the board members have encountered. Dr. Pickett requested compliance officers obtain documentation of actual compliance with orders and not simply accept a letter from the applicant, their attorney, etc., stating they are in compliance without verification to support that statement. Dr. Scholtz commented that there’s discrepancy on what AAGs and department staff say who can do what and requested clarification of who (job title) has authority to review and act on cases involving discipline, limitation of licenses, etc. Sara Kirschenman explained it is more about department procedure/policy as opposed to statutory authority on what can be done. AAG Joyce Roper asked that the discussion continue in broad terms to avoid a specific case being identifiable.

Florence Katz Burstein proposed having a Health Law Judge come to a future meeting to further explain/educate the board on what a disciplinary order can required as far as follow up verification. Sara Kirschenman suggested the board have more discussion on what the
board wants/is asking for before a Health Law Judge visits. AAG Joyce Roper will further research and possibly discuss with Chief Health Law Judge Roman Dixon.

Dr. Scholtz requested a template and either a compliance supervisor or officer at the March board meeting. Sara Kirschenman clarified investigators go out and investigate, not compliance officers. AAG Joyce Roper declined having a board rep to work with them, stated there will be more info at next meeting.

14. Verification letter to substantially equivalent states – James Chaney
The board reviewed James Chaney’s letter and requested some changes. James Chaney will revise and send to Florence Katz Burstein, who may approve the letter prior to being sent out on behalf of the board.

15. Management Reports - Joanne Miller, Credentialing Supervisor; Jeff Orwig, Budget Analyst; James Chaney, Executive Director; and Stacey Saunders, Program Director
   • Joanne Miller presented, numbers haven’t changed much. OCS has been able to fill vacant positions.

15.2 Operating budget report.
   • Jeff Wise answered questions.

15.3 Program update.
   • Overdue application reviews.
   • Psychologist retired 15+ years wants an active license, no current board rule on returning to an active credential from retired status. The board wants CE completed before issuing an active credential. Discussion of (c)(iv) “satisfy other competency requirement of the regulatory entity, if required”, per Joanne that defaults to profession-specific rules which the board does not have. The board agreed that even though WAC 246-12-040 refers to two years and the board rule is 60 CE hours over three years, applicant must do 60 CEs and AIDS training (already completed). The board wants to verify documentation of CE before issuing a new active license. Stacey Saunders will email Joanne Miller so OCS can flag file. The board will review CE documentation at upcoming board meeting.
     o Topic of revising rules came up; James proposed having a day, or a special meeting, to review all WACs for possible updating by the board.
   • ASPPB Mid-Year Meeting
     o Room block reservation deadline March 15, 2019
     o Previously, the board sent two board members and one staff
     o Board approved Dr. Gireshi, Dr. Pickett, and Stacey Saunders to attend
   • May ethics training, Thursday morning, May 16, in Kent
     o Board approved renting conference room elsewhere
     o Florence Katz Burstein, Dr. Pickett, Dr. Cohn, and Sara Kirschenman will help create ethics scenarios for this year’s training.
- James Chaney
  - Two seats on the board will be opening up. There are six brand new applicants and several late submissions received by Governor’s office that have not been sent forward to the department
  - Some bills that may/may not be of interest to the board: reciprocity, 5053 which increases behavioral health workforce, different roles for peer counselors based on life experience
  - Music therapist bill
  - Duty to warn is on legislative agenda

16. Sub-Committee Work – Shari Roberts, Chair
   None at this time

17. Sub-Committee Reports – Shari Roberts, Chair
   None at this time

18. Request for Lists and Labels – Dr. Rachaud Smith
   - 18-01: Motion to approve, seconded; approved
   - 18-02: Motion to approve, seconded; approved

19. Requests for board continuing education waivers - Dr. Rachaud Smith
   - CE-4: Motion to approve, seconded; approved

20. Future Agenda items – Dr. Rachaud Smith
   - Operating agreement/bylaws—AAG Joyce Roper working on matrix, James Chaney getting documents
   - PBI course offerings
   - Industrial/organizational psychologists—board agreed to remove topic
   - Continuing education proposed changes
   - Renewal notice including suicide prevention CE requirement
   - CE audit failures, statistics, verification process
   - Inter-rater reliability and consistency when evaluating non-APA CE courses (Dr. Cohn)
   - Reviewing non-APA applicant files;
   - Dr. Giresi’s draft statement for Chair to read before public comments
   - Follow up on WSPA letter on supervising LBAs and CBTs
   - Discretionary spending - March
   - Update from James Chaney on WRAMP and psychological services (as creation of WACs proceeds, unknown timeline)
   - Discussion with investigators on what and how they monitor/verify compliance, etc.
   - Follow up on monitoring restricted licensees—Joyce Roper, Sara Kirschman, Roman Dixon, additional staff if available for March meeting in Kent
   - Ethics training - draft slides for May training
   - Review of EBOP administrative rules - later discussion, separate day, special meeting?
21. Follow Up on Remaining Prior Meeting Topics

22. Meeting concluded

Submitted by:

[Signature]
Stacey Saunders, Program Director
Examining Board of Psychology

Approved by:

[Signature]
Rachaud Smith, Psy.D., Chair
Examining Board of Psychology

Next Scheduled Meeting
Date: March 8, 2019
Time: 9 a.m.
Location: Department of Health
20425 72nd Ave.
Building 2, Room 307
Kent, WA 98032