

# Newsletter

## Table of Contents

Message/Update from the Board .....1

Message/Update from DOH .....4

Update Concerning Statutes and Rules .....5

Disciplinary/Enforcement Action .....6

## 2020-21 Upcoming Meeting Dates

Note: Until COVID-19 restrictions are lifted, all events will be held by videoconference. Agenda and meeting access will be supplied in advance of each meeting.

November 13, 2020	July 30, 2021
January 29, 2021	September 17, 2021
March 12, 2021	November 5, 2021
May 21, 2021	Ethics training TBD*

\*DOH/EBOP ethics training will be scheduled for the latter part of 2021.

## Message/Update from the Board

The past few months have been very difficult for the U.S. population, with the ongoing ravages of the coronavirus pandemic, widespread unemployment and financial insecurity, limits on our mobility, the killing of George Floyd and other persons of color, protests and civil unrest, the upcoming election, and so much more. And it has been a very tough time for psychologists, who treat clients dealing with relationship issues, work challenges, raising children, etc., as well as the “new reality” of everyday life.

For some psychologists, there is the additional fear that they, their friends and/or family members, or their clients’ family members might end up as victims of racial bias. For others, there is the sobering recognition that they have unknowingly been part of the racism problem (see the American Psychological Association’s “[Psychology and Racism](#)” resource page for further information).

In this critical time the EBOP would like to highlight the following:

### *Diversity and inclusion in board membership*

We have always tried to ensure that EBOP members are selected to represent diverse types of training, education, and professional experience; a range of client services; different parts of the state; and an openness to working with diverse populations with a range of needs. And when the board is called upon to decide on licensing, continuing education, and disciplinary concerns pertaining to specific people, identifying information about the applicant or respondent is typically redacted to ensure fairness and non-bias.

### *Concerns of psychology graduate students*

We are aware that prospective licensees want to meet Washington licensing requirements during their professional training, and that there are special concerns about students’ ability to receive training, client experience or supervision that is 1) “direct” or 2) “face to face.”

- 1) Please note that existing licensing requirements specifying needed amounts of “direct client contact experience” and “direct supervision” do *not* necessitate face-to-face, in-person contact in a common space. Thus, Washington’s required hours or percentages of “direct client contact experience” or “direct supervision” during training may be met via telehealth modalities that support “discussion,” “selection,” “evaluation,” and “review,” as long as telehealth requirements are met concerning such matters as written informed consent, standards of care, privacy and security, recordkeeping, etc. (see Assistant Attorney General Bucknell’s [memo on telepsychology](#), EBOP’s [telehealth guidelines](#), and the American Psychological Association’s [telepsychology guidelines and articles](#).)
- 2) However, current social distancing practices conflict with the preinternship and internship rules, which require face-to-face, in-person, individual supervision in a physical space not assisted by technology (see [WAC 246-924-053](#) and [WAC 246-924-056](#)). Accordingly, the board is weighing the option of issuing an interpretative or policy statement, subject to internal Department of Health review processes and publication in the Washington State Register, to allow a temporary, more flexible application of the “face to face” requirement for preinternship and internship supervision. Another option would be for EBOP to pursue a lengthier and more formal change to the current rule because in-person supervision may remain difficult to achieve for some time, and psychology trainees who are unable to receive face-to-face supervision may submit future licensing applications. Following further review, in the next few months the board will issue more information on the “face to face” requirements for preinternship and internship supervision.

### *Current Board Members*

Rachaud Smith, Psy.D. (Chair)

Florence Katz Burstein, Public Member (Vice Chair)

Leslie Cohn, Ph.D.

Michelle Giresi, Ph.D.

Dug Lee, Ph.D., ABPP

Patience McGinnis, Psy.D.

Lezlie Pickett, Ph.D.

Shari Roberts, Public Member

Ruth L. Varkovitzky, Ph.D., ABPP

### *Practicing telehealth*

To comply with the governor’s “Stay Home, Stay Safe” order during the COVID-19 pandemic, many psychologists are now providing care from home. On March 24 the insurance commissioner issued an emergency order requiring all state-regulated health insurers to expand coverage for telehealth services, using “telephone and video chat tools such as FaceTime, Facebook Messenger video chat, Google Hangout video, Skype, and GoToMeeting.” That order is now on its fifth extension, expiring on October 14. In addition, on March 25 the governor issued Emergency Proclamation 20-29, providing for immediately implementing 2020 legislation providing for payment parity for telemedicine services as with in-person services; this proclamation [has been extended](#) and remains in effect until November 9 unless again extended.

The order and proclamation, together with federal waivers related to telehealth issued by U.S. Department of Health and Human Services and Centers for Medicare and Medicaid Services, effectively modify the platform requirement during the COVID-19 pandemic emergency and should provide support for any licensee against whom a complaint is filed for the use of non- Health Insurance Portability and Accountability Act-compliant technology. Note: The federal and state orders require the use of video-capable technology, *not* solely audio-only telephone communications without video capacity. Also note that no provision in Chapter 18.83 RCW or other applicable rules specifically requires sound-proofing standards for verbal communications with patients.

## Introduction of New Board Members

In the past year, the board said goodbye to Brendon Scholtz, Ph.D.; Janet Look, Ed.D.; and Ruby Takushi, Ph.D. as their terms expired. We welcomed the governor's appointment of the following new members:

- **Patience McGinnis, Psy.D.**  
Dr. McGinnis is a licensed psychologist and Student Wellness Center manager at Washington State University Vancouver in Vancouver.
- **Dug Lee, Ph.D., ABPP**  
Dr. Lee is a board-certified couple and family psychologist in Bellevue.
- **Ruth L. Varkovitzky, Ph.D, ABPP**  
Dr. Varkovitzky is a clinical psychologist who works for the Department of Veterans Affairs and is based in Gig Harbor.

### Vacancies

Please note that we will review applications to fill two 2021 vacancies on the Examining Board of Psychology, one for a professional (psychologist) member and one for a public (non-psychologist) member. For more information on the position requirements, application process and the application form, please go to [Application for a board or commission](#).

Beyond platform considerations, psychologists licensed in Washington offering telehealth service should continue to comply with rules concerning obtaining written informed consent, practicing within their areas of competence, maintaining standards of care, ensuring privacy and security, properly maintaining records, etc. (see Assistant Attorney General Bucknell's [memo on telepsychology](#)). In 2016, EBOP published [telehealth guidelines](#) and the American Psychological Association website also includes [telepsychology guidelines and articles](#). If a client is using insurance, psychologists should verify the circumstances under which telehealth is covered. Should complaints arise about recordkeeping, lack of soundproofing or other matters, they will be evaluated considering specific circumstances; if the board authorizes an investigation, normal investigatory procedures will be used.

### *Practicing after the pandemic*

When the COVID-19 emergency ends, some psychologists may choose not to meet with clients face to face due to personal health concerns. The board cannot provide guidance about providing or not providing care in the office, whether in private practice or other settings. A practicing psychologist, in any venue, must ensure continuity of care arrangements are in place to prevent concerns about patient abandonment.

### *Temporarily or permanently closing a psychology practice (e.g., due to your own health or other concerns, retirement, relocation)*

Practice closure or cessation should be conducted in accordance with your written practice policy (See WAC 246-924-354 and other applicable state or federal laws). Take adequate steps to ensure the maintenance, confidentiality, and availability of client records, have a well thought out transition plan, and provide notice and referrals when possible. Instructions on creating a [professional will](#) and related resources are available at [APA Services](#).

### *The future of reimbursement for telehealth services*

We are unable to provide definitive information on the future availability of coverage for telehealth services. However, given the value telehealth has shown during the pandemic and its increasing acceptance by clients and payers, we expect that continuing reimbursement will be considered further by the Office of the Insurance Commissioner (for commercially insured plans), Medicare, Medicaid, self-insured employer and union plans, and other payers. We will provide further information as it becomes available. In the meantime, you may find information at the [OIC](#), [HCA](#), and [Governor's Office](#) websites.

## Message/Update from DOH

### *Licensing and Continuing Education*

DOH extended licenses that would have expired otherwise during COVID-19 shutdowns. This extension expired September 30. For fastest processing, [licenses can be renewed online](#). Licensees may complete all 60 continuing education hours online if there are any issues with finding or attending in-person classes due to COVID.

### *Upcoming Legislation*

The 2021 legislative session begins in January. All psychologists are encouraged to maintain awareness of bills that could affect the profession. Among the potential bills that could be introduced are those that relate to:

- ✓ PSYPACT, an interstate compact that would allow qualifying psychologists to practice outside the jurisdictions in which they are licensed;
- ✓ Prescriptive authority (RxP), which would provide qualifying psychologists the authority to prescribe medications; and,
- ✓ Emergencies similar to COVID-19.

### *New Licensing Tool*

DOH is moving forward toward replacing its current outdated licensing system. The Healthcare Enforcement and Licensing Modernization Solution, known as HELMS, aims to find a replacement for the Integrated Licensing and Regulatory System (ILRS).

### *Stay Connected*

Please [sign up](#) to get notifications regarding board meetings, rules workshops, and other psychology-related information from the Department of Health.





## Update Concerning Statutes and Rules

<b><u>SB 5054</u></b>	Requires establishment of a reciprocity program to increase the portability of behavioral health licenses. The program will apply to psychologists, mental health counselors, marriage and family therapists, social workers, and substance use disorder professionals. This bill passed in 2019 and is in the implementation phase. Chapter 351, Laws of 2019.
<b><u>ESHB 1768</u></b>	Passed in 2019. It revises the substance use disorder professional chapter and requires creation of a co-occurring disorders enhancement. The enhancement allows other mental health professionals to treat substance use disorders. The bill does not change the scope of practice of professions for which substance use disorder treatment is already within scope. Chapter 444, Laws of 2019
<b><u>ESSB 6641</u></b>	Changes the training requirements and qualifications for sex offender treatment providers (SOTPs). The changes are intended to increase the availability of certified SOTPs. The new law limits certification as an SOTP to licensed psychologists, social workers mental health counselors, and psychiatrists. Chapter 266, Laws of 2020.
<b><u>Possible prescriptive authority for psychologists</u></b>	The Department of Health sunrise (pre-passage) review is in progress regarding the authorization of psychologists to prescribe medications. More information, including the request from the legislator and proposed bill (HB 2967), is on the DOH <a href="#">Sunrise Reviews</a> page. In addition, the American Psychological Association has many resources available, including which states have prescriptive authority for psychologists, resources, and recommendations.
<b><u>ESHB 1551</u></b>	Passed both houses of the legislature, repealing statutes requiring AIDS training for health care professionals. EBOP, along with many other regulated health care professions, is in the process of removing relevant administrative rules in compliance with the change in statute. Chapter 76, Laws of 2020.
<b><u>ESHB 2411</u></b>	Also passed the legislature, adding specific requirements for the second required course on suicide intervention. Chapter 229, Laws of 2020.
<b><u>SB 5720</u></b>	Passed and makes several changes to the involuntary treatment act. Chapter 302, Laws of 2020.
<b><u>HB 2534 and HB 2303</u></b>	Would have created provisional professional licenses for service members and military spouses. Neither bill passed.
<b><u>SB 6549 and HB 2408</u></b>	Proposed adoption of Psychology Interjurisdictional Compact. Neither bill passed in 2020 but they are expected to be reintroduced in the next legislative session.

## Disciplinary/Enforcement Action

EBOP and staff members from DOH and the Office of the Attorney General review, and sometimes investigate and pursue, more than 100 complaints per year, of which perhaps 10 percent ultimately result in formal disciplinary actions, including written decisions/settlements involving fines, new training requirements, mandatory supervision, future audits, and/or license suspension/surrender.

The most frequent complaints resulting in discipline involve the following:

- ✓ Parenting evaluations (opinions)
- ✓ Failure to release records as requested
- ✓ Boundary violations with clients and key parties
- ✓ Sexual misconduct
- ✓ Standard of care concerns
- ✓ Fee or billing disputes



Basic ways to avoid these problems are to:

- ✓ Consult with other practitioners
- ✓ Maintain complete and accurate records
- ✓ Review and update your disclosure and informed consent forms
- ✓ Review EBOP's rules of ethical conduct (RCW 246-924-351)
- ✓ Set and maintain appropriate boundaries
- ✓ Obtain supervision when needed
- ✓ Take acceptable continuing education (CE) courses
- ✓ Stay up to date on the latest information and research in your practice area(s)
- ✓ Communicate well and use basic social skills
- ✓ If called upon to conduct a parenting evaluation, refer to parenting evaluation rules that detail the psychologist's responsibilities and limitations ... "to assist in determining an appropriate residential arrangement, parental duties, or parental relationship with respect to a minor child." Also, unless there are qualifying mitigating circumstances recognized by the court, do not conduct a parenting evaluation if you have "provided therapeutic services to any party involved in the evaluation." (WAC 246-924-445 and -467)

For more information on disciplinary activity, please refer to the upcoming *2018-19 Uniform Disciplinary Act Biennial Report* to be issued in December.