



STATE BOARD OF PSYCHOLOGIST EXAMINERS

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ADMINISTRATIVE

10-1 DELEGATION OF AUTHORITY

The State Board of Psychologist Examiners (Board) delegates the following statutory powers, duties, and functions to the Health Services Section Director and the Mental Health Program Director of the State Board of Psychologist Examiners:

- Approve continuing education coursework.
- Approve termination of stipulations that have completed terms and conditions. The Board shall review requests for early termination of stipulations.
- Allow delegated professional Board member(s) to approve monitoring reports, monitors, and continuing education relating to discipline.
- Sign and issue confidential letters of concern to licensees for practicing with an expired license for one year or less. Such matters that are dismissed with a confidential letter of concern shall be dismissed due to no reasonable cause to warrant further action at this time and shall be retained in the Board's files for a period of five years.
- The authority to approve post-doctoral teaching hours, hours supervised by a board-certified psychiatrist, and research hours as allowed by Board Rule.
- Sign Stipulations and Final Agency Orders, and other orders authorized by the Board.
- Sign Suspension Orders as required by the Child Support Enforcement Program.
- Perform the initial review of complaints relating to the practice of persons under the Board's jurisdiction and to issue 30-day letters relating to the complaints.
- Initiate complaints and issue 30-day letters to licensees currently under Stipulation or other Final Board Order if, in the opinion of the Program Director, Program Manager, or Section Director, the licensee has failed to comply with any of the terms of the Stipulation or other Final Board Order.
- Initiate complaints and issue 30-day letters where otherwise authorized by the Board.
- Utilize services of the Office of Investigations as warranted to carry out duties of the Board.
- Provide information and notice to Board Members in a timely manner on matters concerning the status of legislative bills that may affect the Board's operation, ability to carry out its duty, and the intent of its statutes.
- Suspend and reinstate the licenses of practitioners who are in violation and subsequently in compliance of the Child Support Enforcement Act as notified by the Colorado Department of Human Services.
- Sign Letters of Admonition, Cease and Desist Orders, Stipulations and Final Agency Orders and other formal actions of the Board, once approved by the Board.
- Sign subpoenas for investigation of Board matters. The Assistant Attorney General is authorized to enforce the subpoena.
- With the approval of the Board Chair, determination of non-substantive procedural matters relating to the rendering of the Initial Decision.
- Preliminary review and approval of applications.

Process “yes” applications for further review based upon Board rules, statutes, and regulations

Adopted June 3, 2011; Amended October 4, 2013

10-2 BOARD OPERATIONS (C.R.S. § 12-43-203)

(a) Purpose. This Policy sets out the organization, administration, and general procedures and policies governing the operation of the Board.

(b) Office. The office of the Board is located within the Department of Regulatory Agencies in Denver, Colorado.

(c) Meetings.

(1) The Board shall hold regular meetings and additional meetings as necessary during each year ending on June 30th.

(2) The chair may call meetings after consultation with the Board and shall call meetings if requested to do so by a majority of Board members. The chair will immediately notify the Director of any such call of a meeting, the purposes of the called meeting, and any related information as requested by the Program Director. The Director may call any meeting of the Board.

(3) The Board may conduct meetings by telephone or electronic means as necessary.

(4) The Board will announce and conduct its meetings in accordance with the Colorado Open Meetings Law, CRS 24-6-401 et seq.

(d) Quorum. The Board consists of seven appointed members. A quorum of the Board necessary to conduct business is four members. The quorum does not change, even if there are open Board positions.

(e) Rules of order. The Board shall conduct its meetings in an orderly fashion, with due regard for the rights of each Board member. The Board may refer to Robert's Rules of Order Revised when necessary.

(f) Transaction of official business.

(1) The Board may transact official business only when in a legally-constituted meeting with a quorum present.

(2) The Board is not bound in any way by any action on the part of any Board member and/or the Director except when the action is pursuant to a specific instruction or direction of the Board.

(3) Informal opinions given or statements made by a Board member and/or the Director are not official opinions or statements of the Board and do not bind the Board. Only those opinions, decisions, or policies documented in the written minutes of Board meetings, Board rules, or official publications of the Board are binding as action of the Board.

(g) Minutes. The minutes of any Board meeting are official only when approved by the Board and signed by the chair or vice-chair.

(h) Elections.

(1) At the meeting held in July of each year, or as soon thereafter as possible, the Board shall elect, by a simple majority vote of those members present, a chair and vice-chair.

(2) A vacancy that occurs in the office of the chair or vice-chair may be filled at any regular meeting.

(i) Officers.

(1) The chair presides at all meetings that s/he attends and performs all duties prescribed by law, Board rules, or Board policies. The Board hereby authorizes the chair to make day-to-day minor decisions regarding Board activities in order to facilitate the responsiveness and effectiveness of the Board. At all times the chair exercises her/his authority subject to the general policies, rules, orders, decisions, findings, and determinations of the Board.

(2) The vice-chair performs the duties of the chair in case of the absence or disability of the chair. If the office of the chair becomes vacant, the vice-chair serves as chair until a successor is elected. If the chair recuses from an item for consideration by the board, the vice-chair performs the duties of the chair for that item.

(j) Committees. The Board or the chair with the approval of the Board may establish committees or appoint consultants as deemed necessary to assist the Board in carrying out its responsibilities. As necessary or as requested, committee chairs and consultants shall make reports to the Board. Committees and consultants shall provide all written reports or other materials to the Director for distribution to the Board.

(k) Impartiality. Any Board member who cannot be impartial in the determination of or who has an immediate personal, private, or financial interest in a matter before the Board shall inform the Board and shall not participate in any Board deliberation or vote on the matter. No Board member who previously supervised or directed a psychologist who is the subject of a Board investigation or disciplinary proceeding shall participate in Board deliberations or votes with respect to that psychologist.

Adopted December 2, 2011

10-3 PROCEDURES FOR INVESTIGATIONS AND DISPOSITION OF INQUIRIES (C.R.S. §12-43-221, 12-43-223, 12-43-224)

(a) General. This Policy sets out the procedures for making and processing inquiries against licensee, registrant or certificant where the inquiries are within the jurisdiction of the Board.

(b) Initial Inquiries.

(1) Generally, inquiries against the licensee, registrant or certificant must be submitted in writing and should state in as much detail as possible the facts upon which the inquiry is based. If the complainant or recipient of psychotherapy services would like to have her/his name withheld from the public, this request should be included in the inquiry.

(2) At the discretion of the Board, an oral inquiry may be informally handled. The Board may request that oral inquiries be reduced to writing.

(3) At the discretion of the Board, anonymous inquiries may be reviewed.

(c) Voluntary surrender of license. If a licensee is the subject of a Board investigation or disciplinary proceeding, voluntarily surrenders her/his license, absent unusual circumstances, the Board will not discontinue the investigation or disciplinary proceeding unless the licensee consents to entry of a permanent injunction limiting or prohibiting her/his practice of psychology and psychotherapy in Colorado.

(d) Notice to licensee, registrant or certificant. If the allegations in an inquiry against a licensee, registrant or certificant, if proved, would constitute grounds for action pursuant to CRS §§ 12-43-222, 12-43-223, 12-43-224, 12-43-226, or 12-43-227 the Director shall:

(1) Inform the licensee, registrant or certificant in writing that an inquiry has been made against her/him, enclose a copy of the inquiry, indicate the provisions of the Act that may have been violated, and request the licensee, registrant or certificant's cooperation in ascertaining the facts and circumstances that led to the inquiry.

(2) Request the licensee, registrant or certificant to provide a written statement setting out her/his response to the inquiry and whatever facts s/he may consider relevant for the Board to understand the circumstances. The licensee, registrant or certificant shall have 30 days, or such time as the Board may determine in its discretion, to respond to the inquiry.

(3) At the discretion of the Director, the complainant may be given an opportunity to review and to comment upon the licensee, registrant or certificant's response.

(e) Requests for extension of time. The Director may grant a reasonable request for extension of time within which a licensee, registrant or certificant may respond to the inquiry and/or within which a complainant may comment upon a licensee, registrant or certificant's response.

(f) Initial Board Consideration of Inquiries. When the licensee, registrant or certificant has responded and the complainant has commented (if the complainant is asked to comment) or at the expiration of the response time (if the licensee, registrant or certificant or complainant submits no response), the Director shall forward the inquiry, any response, and other available information to the Board for its review. The Board shall not delay its initial consideration of an inquiry because the licensee, registrant or certificant or complainant has not responded. The Board shall not delay its initial consideration of an inquiry because the licensee, registrant or certificant has not responded. Failure to respond to a board complaint is a violation of CRS § 12-43-222(1)(x).

Adopted December 2, 2011

LICENSING

No policies at this time.

PRACTICE

30-1 TELETHERAPY POLICY – GUIDANCE REGARDING PSYCHOTHERAPY THROUGH ELECTRONIC MEANS WITHIN THE STATE OF COLORADO

When listed, certified, registered, or licensed and treating clients within the State of Colorado, it is at the discretion of the mental health professional as to the type of modality of treatment format that is appropriate for the client. Regardless of the modality chosen, the mental health professional must comply with all provisions as outlined in the Mental Health Practice Act, Title 12 Article 43.

It is recommended that the initial therapeutic contact be in person and adequate to provide a conclusive diagnosis and therapeutic treatment plan prior to implementing any psychotherapy through electronic means. The mental health professional is expected to establish an ongoing therapeutic relationship including face-to-face visits on a periodic basis thereafter.

Once a mental health professional chooses to provide psychotherapy via electronic means, the mental health professional is expected to carefully identify and address issues that involve:

- 1) The agreed upon therapeutic means of communication between the client and the mental health professional. (i.e. when will face-to-face contact be appropriate, what method(s) of electronic communication will be utilized, what is the structure of the contractual relationship);
- 2) Implementing written consent form(s) and proper disclosure(s) including, but not limited to the client's knowledge regarding security issues, confidentiality, structure, etc.;

- 3) Ensuring that the therapeutic means of communication includes confidentiality and computer/cyber security;
- 4) Determining the basis and ability for the mental health professional to support the rationale for the decision to choose a particular therapeutic method;
- 5) Ensuring that the mental health professional is practicing within his/her scope of practice;
- 6) Ensuring that the therapeutic means of communication that is chosen does not cause any potential harm to the client.

The mental health professional may encounter specific challenges while providing psychotherapy through electronic means. The mental health professional must realize that these challenges may include, but are not limited to:

- 1) Verifying the identity of the client and determining if they are a minor;
- 2) Providing the client with procedures for alternative modes of communication when there is possible technology failure;
- 3) Assessing how to cope with potential misunderstandings when the visual cues that would normally occur during face-to-face visits do not exist;
- 4) Assessing how to address crisis intervention when necessary;
- 5) Ensuring that clients are knowledgeable with regard to encryption methods, firewall, and backup systems to help secure communication and educate clients on the risk of unsecured communications;
- 6) Establishing a means to retain and preserve data;
- 7) Upon request, have the ability to capture and provide client treatment notes, summaries or other information that is received via the electronic technology;
- 8) Disclosing that health insurance coverage may not exist for psychotherapy service that is provided through technological means.

Disclaimer

This policy applies only to Mental Health professionals listed, certified, registered, or licensed, and treating clients within the State of Colorado.

Date Adopted by Program:

12/13/12—State Board of Addiction Counselor Examiners

04/22/11—State Board of Registered Psychotherapists

03/18/11—State Board of Licensed Professional Counselor Examiners

02/25/11—State Board of Marriage & Family Therapist Examiners

04/08/11—State Board of Psychologist Examiners

01/28/11—State Board of Social Work Examiners

30-2 GUIDANCE TO MENTAL HEALTH PROFESSIONALS REGARDING DUAL AND / OR MULTIPLE RELATIONSHIPS.

Dual or multiple relationships occur when a professional assumes two or more roles at the same time or sequentially with a client or with someone who has a significant relationship with the client. C.R.S § 12-43-222(1)(i) prohibits mental health professionals from engaging in a dual relationship with a client when it is likely to impair such person's professional judgment or increase the risk of client exploitation. During the 2011 legislative session, a new statute was passed requiring the Boards to provide guidance to mental health professionals regarding this violation.

The applicable statutes are as follows:

C.R.S § 12-43-203 (12) states : "The Boards shall develop rules or policies to provide guidance to persons licensed, registered or certified pursuant to this article to assist in determining whether a relationship with a client or potential client is likely to impair his or her professional judgment or increase the risk of client exploitation in violation of section 12-43-222(1)(i)."

C.R.S § 12-43-222(1)(i),states: "A person licensed, registered, or certified under this article violated this article if the person: has maintained relationships with clients that are likely to impair such person's professional judgment or increase the risk of client exploitation, such as treating employees, supervisees, close colleagues, or relatives."

Dual relationships may occur when a licensed, registered or certified mental health professional is in a professional role with a client and:

- at the same time is in another role with the client, or
- at the same time is in a relationship with a person closely associated with or related to the client with whom the mental health professional has a professional relationship with, or
- promises to enter into another relationship in the future with the client or person associated with or related to the client.

Licensed, registered, or certified mental health professionals should refrain from entering into a dual / multiple relationship if the dual / multiple relationship could impair the mental health professional's objectivity, competence, or effectiveness in performing his or her functions as a mental health professional, otherwise increase the risk of exploitation, or harm to the client with whom the professional relationship exists.

Some examples of inappropriate dual relationships which **may** have a greater chance of impairing a mental health professional's judgment or increasing the risk of client exploitation **include, but are not limited to:**

- Providing treatment or therapy to an employee regardless if you directly or indirectly supervise the employee;
- Providing treatment to any person who provides services to you, your colleagues or close relatives (e.g., housekeeper, babysitter, dentist), or soliciting services from an existing client;
- Providing treatment to someone with whom you are engaged in a close friendship or intimate relationship, or providing treatment to anyone closely associated with or related to that person;
- Providing treatment to any person you supervise or teach, or by whom you are supervised or taught, regardless of whether you (or they) are being compensated for such supervision or teaching;
- Providing treatment to a person for whom you are also providing another service not associated with mental health treatment;
- Selling products (including books or videos) or providing other services related to or unrelated to mental health to a client;
- Providing couple's counseling and individual therapy to the same person(s) at the same time;
- In custody cases, providing treatment or therapy to a party and also providing opinion or expert witness testimony or a custody evaluation in violation of Chief Justice Directive (CJD) Standard 4;
- Providing individual therapy and then providing opinion testimony in court without first obtaining a voluntary release of information from the client you provided mental health services to;
- Providing individual therapy to a child and simultaneously providing individual therapy to the parents and /or providing supervision for parenting time without obtaining full informed consent by all parties and all necessary releases.

Any of the aforesaid examples also apply when a mental health professional engages in these roles with a person closely associated with the client during the same time they are treating the client (e.g., agreeing to supervise the spouse of a client).

These are examples to illustrate potential conflicts and provide guidance to help mental health professionals avoid violation of C.R.S § 12-43-222(1)(i). These examples are not inclusive of every prohibited scenario and may be amended from time to time by the board.

The Board will review each case on a case by case basis and determine whether there is a violation of C.R.S § 12-43-222(1)(i).

State Board of Psychologist Examiners Policies

The Board strongly encourages all mental health professionals to assess the situation before engaging in dual roles with clients. Mental health professionals should refrain from taking on a professional role when personal, scientific, professional, legal, and financial or other interests or relationships could impair their objectivity, competence, or effectiveness in performing their functions as a mental health professional or expose the client or organization with whom the professional relationship exists to harm or exploitation.

All mental health professionals should always have their client's best interests in mind at all times.

Following is a test recommended by the American Psychological Association. Prior to engaging in a potential dual relationship, these questions should be reviewed and considered by any mental health professional who is contemplating a dual relationship with a patient, client, employee, supervisee, research participant or student prior to doing so.¹ Document as appropriate the answers to these questions if you choose to proceed with the dual relationship:

- 1) Is there any possibility of loss of effectiveness of the professional? If yes, then do not proceed.
- 2) Is there any possibility of loss of objectivity of the professional? If yes, then do not proceed.
- 3) Is there any possibility of loss of competence of the professional? If yes, then do not proceed.
- 4) Is there any possibility of risk of exploitation of the client? If yes, then do not proceed.
- 5) Is there any possibility of risk of harm of the client? If yes, then do not proceed.

If the answer is "no" to all of the above questions then the mental health professional may decide to proceed with caution and should consult with an objective peer/colleague to determine the client's best interests and identify any ethical blind spots on the part of the professional.

However, the mental health professional remains responsible for any statutory or regulatory violation involving a dual relationship.

Adopted December 2, 2011

¹ American Psychological Association. (2002). Ethical Principles of Psychologists and Code of Conduct. *American Psychologist*, 57(12), 1060-1073.

DISCIPLINE

40-1 PROCESS FOR HANDLING COMPLAINTS INVOLVING A BOARD MEMBER

It is the policy of the State Board of Psychologist Examiners (Board) that any signed complaint received by the Board against a current licensee who is a member of the Board or one who has served on the Board within the past five years, or a licensee who has an ongoing formal relationship with the Board will be handled as follows:

- At a minimum, the complaint may be sent to the Office of Investigations to determine if there is any validity to the allegations. If the complaint alleges sexual boundary violations, substance abuse, or physical or mental impairment, and the report from the Office of Investigation substantiates such allegations, then the Board may require the licensee to undergo evaluation by a designated provider to the Board or a qualified healthcare provider selected by the Office of Investigations, if the Board has not already done so.
- If the complaint alleges a violation of the Practice Act, the complaint will be sent to the Office of Investigations within the Division of Registrations for a formal investigation.
- If the complaint alleges substandard practice, the Office of Investigations will also have the case reviewed by an independent consultant selected by the Office of Investigations. Upon completion of the investigation or evaluation, the report will be referred to the Board for appropriate action.

All other customary procedures for the handling of a complaint by the Board will apply. These may include but are not limited to issuance of a 30-day letter, notification to the licensee and complainant of Board decisions, and the confidentiality of the complaint and investigation as provided by the Practice Act.

Anonymous complaints filed against a current licensee who is a member of the Board or one who has served on the Board within the past five years, or a licensee who has an ongoing formal relationship with the Board will be evaluated by the Board on a case by case basis.

Adopted August 19, 2011

40-2 CASES DISMISSED WITH LETTERS OF CONCERN: CLARIFICATION OF BASIS FOR DISMISSAL; REOPENING OF SUCH CASES; CASE RETENTION PERIOD

It is the policy of the Board that complaints that are dismissed with letters of concern are not dismissed as being without merit, but rather are dismissed due to no reasonable cause to warrant further action at that time. Cases that are dismissed with a confidential letter of concern will be retained in the Mental Health Program's files for a period of five years.

The Program Director or Section Director may reopen a case that was dismissed with a letter of concern in the face of a change in circumstances. Such a change in circumstances would include, but not be limited to:

- Discovery of new evidence supporting the underlying charges;
- Evidence that the licensee has engaged in further unprofessional conduct/grounds for discipline following issuance of the letter of concern, in which there is a nexus between the new conduct and that which was addressed in the case that was dismissed with the letter of concern.

After five years from the date of the letter of concern, the file will be disposed of in accordance with the Division's records management procedures. If the licensee has other active cases pending at the end of the five year retention period, the letter of concern may be kept for a longer period of time at the discretion of the Mental Health Program Director.

Adopted August 19, 2011