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## A Word from the Executive Director

Greetings! I am just returning from the ASPPB (Association of State and Provincial Psychology Boards) Midyear Meeting, which was held in Santa Fe, New Mexico where the elevation is 7200 feet above sea level. I was hoping for some warmer weather after a cold and snowy winter in Oregon, but the weather met us with snow on two of the days. I learned that Oregon does not have a monopoly on sideways snow! Also attending were Board members Dr. Johannsen, Dr. Jones and Dr. Ziegler. The ASPPB had a full agenda with several current topics of interest: Differentiating Roles; Board members vs Guild members vs Licensed Psychologists; Protecting the Public; Practicing Administrative Law; How Jurisdictions Evaluate Credentials; When Discipline is Necessary; The Enhanced EPPP, Licensing Boards Providing Continuing Education to Licensees; and PSYPACT. I had an opportunity to see how different states and provinces operate. I came away with some good ideas, but I also came away with the satisfaction that the OBOP is ahead of the pack in many areas. Most importantly, I came away with a renewed faith that Psychology Boards in North America are working overtime to protect the consuming public of psychological services. I took a couple of days of personal time while in New Mexico and on one day visited the Los Alamos National Laboratory where, in the 1940s, the greatest minds in the world were assembled with the goal of ending WW II. In Los Alamos, in 1945 the nuclear age was developed by the top scientists of the era. I learned that the average age of the Los Alamos community at that time was only 29 years old. What struck me most was how technology has changed since those times. But, I also learned that the scientists at Los Alamos today are working hard to protect civilization worldwide. When entering the Los Alamos site, I was stopped at the guard shack and asked for my ID and the purpose of my visit. At first, I was a bit annoyed by having to produce my ID, but the guard was gracious. I quickly realized that the guard's role was to protect the public and that he/she was just doing their job.

Technology has allowed us to develop an amazing BOP website. The information contained in our website is immense and users of the website have a wealth of information available with just a click of a mouse. If you have not had a chance to visit our website, please do so. [Oregon.gov/Psychology](http://Oregon.gov/Psychology)

This newsletter contains two very informative articles. One article, The Board's Role talks about the Board's role as opposed to the Oregon Psychological Association's role, the differences and sometimes the similarities. There are a couple of take-aways from this article, 1) Board members and staff cannot provide legal or clinical advice, and 2) the Board and its staff cannot grant variances to law, rule or ethical code provisions. The second article, Mandated Reporting of Licensed Healthcare Professionals is an informative history of how HB2059 came into being. This article outlines the responsibility of a licensed healthcare professional with regards to mandated reporting and is meant to be a guideline for Psychologists practicing in Oregon. The article also provides case history dating back to 2010. This article was the product of a combined effort by LaRee Felton, Policy Advisor and Licensing Manager, Warren Foote, Agency Counsel, Dr. Johannsen, Board Chair, and Dr. Grover, Board Vice-Chair. We hope that you find these articles helpful.

Charles Hill, Executive Director, Mental Health Regulatory Agency  
*"Plans are nothing, but planning is everything" – Dwight D. Eisenhower* 

## The Board's Role

The purpose of this article is to help clarify some common areas of confusion involving the role of the Board of Psychology (Board).

### *Regulatory Board vs. Professional Association*

The Board was created for the purpose of determining qualifications for licensure for psychologists and psychologist associates (academic and training standards), ensuring that candidates meet the licensure qualifications (education, exam, experience, character and fitness, etc.), ensuring ongoing compliance with licensure requirements (renewal, continuing education, designated qualified person, etc.), and establishing and enforcing a code of professional ethics. Board staff receive complaints, and investigate alleged violations of Board law, rule, and the APA Code of Ethics. When appropriate, the Board imposes and enforces sanctions such as license suspension or revocation, civil penalty, requirement to practice under supervision, and additional continuing education. The regulatory functions of the Board are set to create high standards for professional practice in Oregon and to ensure the ongoing competence of the professionals licensed. In summary, the Board's purpose is to protect the public.

In contrast, the role of professional associations (e.g. the Oregon Psychological Association) is rooted in promotion of the profession. Associations typically offer continuing education trainings and networking opportunities, provide informational resources, keep members apprised of current issues, and engage in advocacy for—or opposition to—legislation that affects the profession. Many professional associations offer peer consultations and provide advice on ethical or legal issues.

There are certainly areas where the interests of a regulatory board and a professional association will overlap. For example, proposed legislation that changes the continuing education requirements or modifies the scope of practice for psychologists will have both regulatory and professional practice implications. However, **there is an important distinction between a governmental regulatory board's public protection mandate and a professional association's professional advocacy role.** The two will not always align when it comes to certain policy considerations.

### *Legal and Clinical Advice*

Another area of confusion involves the Board's advisory role. **Board members and Board staff cannot provide legal or clinical advice.** Oftentimes, the Board's website or staff may be able to direct individuals to relevant information such as applicable laws, rules, ethical code provisions, or official guidelines. But it is not the role of Board personnel to perform analysis of the law or to research clinical standards and provide advice on how those apply to a person's specific situation. Such advice takes specific legal and/or clinical knowledge and extensive, time-consuming research and analysis work to ensure accuracy and consistency. There are significant implications of offering such advice; it affects the rights and responsibilities of the Board and the recipient of the advice. From a practical perspective, current resource and staffing levels would not allow for Board staff to respond to requests for legal and clinical advice from more than 2,250 current applicants, residents, and licensees.

Psychologists, psychologist associates, residents, and applicants have a responsibility to read, understand, and follow the APA Code of Ethics and to adhere to applicable laws and regulations. *See OAR 858-010-0075 and the APA Code of Ethics (2010).* A practitioner who encounters an area of uncertainty must take steps to follow an ethical decision making model. This includes regularly reviewing statutes, administrative rules, and ethical code provisions to ensure a strong foundational understanding. Researching best practice as it applies to your situation and consulting with colleagues and/or legal counsel is also recommended. Clearly document the steps that you took in order to resolve your issue, including what you learned from research conducted and discussions held. Also, you are encouraged to check with your professional association because, as mentioned above, many offer helpful advice services.

Similarly, it is not appropriate to contact individual Board members to attempt to lobby for a particular position, for example a policy opinion or a past or pending decision of the Board on a compliance issue. Board members are not able to speak as individuals about a Board matter or make any individual decisions outside of the full Board. Many stakeholders are not aware of this, but the Governor's Office requires that Oregon State agencies, including the Board, must not take a position on any legislation other than to support bills introduced by the Board itself or the Governor's office.

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## The Board's Role, Cont.

### *Variances to Law, Rule, or Ethics Code*

Oftentimes, the Board must render decisions or provide information that some individuals may find unfavorable. As described above, the Board is a governmental regulatory agency charged with setting certain standards and enforcing specified Oregon law. State agencies cannot set standards and then choose not to apply them to just some individuals, or decide not to follow the statutes established by the Oregon State Legislature. Such practices are not only unfair and arbitrary, but are also illegal. **The Board and its staff cannot grant variances to law, rule, or ethical code provisions.** A somewhat common area of confusion is the expiration of licensure applications or lapsing of licenses for those who fail to complete the process. While Board staff do put forth significant effort to strengthen awareness through advisory articles, web materials, and courtesy reminders, licensees, residents, and applicants are personally responsible for understanding and fulfilling the requirements to achieve and maintain professional licensure in Oregon. Requests for exception to the administrative rules cannot be granted by the Board.

- LaRee Felton, Policy Advisor to the Board, Mental Health Regulatory Agency Ψ

## Enforcement Actions

During the period of time from January 11, 2019, to April 12, 2019, the Board took the following actions:

**Gary Fink, M.A.** (Respondent), **STIPULATED ORDER**, effective January 11, 2019. Respondent is not licensed by the Board to practice psychology in the State of Oregon. The Board opened an investigation in 2017 after receiving allegations that Respondent represented himself to the public via websites as a "Professional Counselor and Life Coach" with a professional designation of QMHP providing various treatment modalities, including psychological services. "QMHP" and "Qualified Mental Health Professional," are not professional licenses or qualifications to practice in a private clinical setting. Respondent has been the subject of two previous investigations for the unlicensed practice of psychology for similar reasons. The second investigation involved a complaint that he had listed DSM-IV disorders as his practice specialty in online advertisements. Respondent informed the Board that he had submitted an application to become a licensed professional counselor (LPC) in Oregon and asserted that he was, therefore, in an exempt status. The case was subsequently closed. Later inquiry has revealed that Respondent never completed his application to be licensed as an LPC. Respondent violated ORS 675.020(1)(a) and (2) and ORS 675.020(1)(b) and (2) by engaging in the unlicensed practice of psychology and representing himself to be a psychologist without a license. Respondent was ordered to pay a civil penalty of \$5,000.

**Austin R. Burres, Psy.D.** (Applicant), **STIPULATED ORDER**, effective January 11, 2019. Applicant submitted an application for licensure to the Board in which she answered, "No," to the application question, "Have you ever been investigated by, or been the subject of, disciplinary actions (e.g., reprimands, demotion, dismissal, expulsion, probationary status) by an employer, educational program, or training program for personal or professional misconduct?" Applicant's answer was not accurate. In fact, while attending Pacific University, Applicant was the subject of an academic hearing and subsequently placed on academic probation. Applicant violated ORS 675.070(2)(d) and (f), and OAR 858-010-0020(6). Applicant was ordered to pay a civil penalty of \$200.

**Juvenal George, Psy.D.** (Licensee), **DEFAULT ORDER**, effective January 11, 2019. Licensee began working as a "Psychologist Resident" on September 1, 2014 at an exempt site, and continued to work until about April 5, 2018. Licensee's employment as a Qualified Mental Health Provider (QMHP) at the exempt site exceeded 24 months, in violation of ORS 675.090(1)(f) and (2)(a), as well as OAR 858-010-0036(1)(d). Licensee violated ORS 675.020(1)(a) by engaging in the practice of psychology without a license. Licensee was reprimanded and ordered to pay a civil penalty of \$1,000.

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## Enforcement Actions (continued)

**Patricia Albrecht, Psy.D.** (Licensee), **STIPULATED ORDER**, effective January 11, 2019. Licensee submitted a license renewal application to the Board, but failed to attest that she met the continuing education requirements and submit proof of Healthcare Workforce survey completion. As a result, Licensee's renewal application was not timely and her license subsequently lapsed. The Board informed Licensee that she must submit a reinstatement application along with all required documents, including reinstatement application fee, "no later than September 29, 2018" in order to reinstate her license. The Board received her application on September 20, 2018, however, Licensee failed to answer two of three questions listed in the instructions section of the application, which pertained to her practice of psychology. Licensee was informed her application was incomplete. In response, Licensee submitted a letter which stated: "I have continued in my regular work as a clinical psychologist during the few days that I have worked while waiting for my reinstatement." Licensee violated ORS 675.020(1) and (2) by practicing as a psychologist without a license and representing herself to be a psychologist when she lacked an active license, ORS 675.070(2)(d)(A), immoral or unprofessional conduct, by practicing psychology after her license had lapsed, despite receiving repeated instructions by the Board, and ORS 675.070(2)(h) by violating Board rule (OAR 858-010-0041(1)(a), OAR 858-040-0015(1) and OAR 858-040-0025) by engaging in the practice of psychology after her license had lapsed. Licensee was reprimanded and ordered to pay a civil penalty of \$2,000 and complete three hours of continuing education on practice management.

**Carol Markovics, Ph.D.** (Licensee), **STIPULATED ORDER**, effective January 11, 2019. Licensee violated Ethical Standard (ES) 2.01, Boundaries of Competence, by providing services beyond her area of expertise, and failing to avoid involvement in a custody dispute where she was serving in a therapeutic role for the child and offering an opinion in a custody issue without contact or evaluation of both parents. Licensee violated ES 4.01, Maintaining Confidentiality, by failing to take reasonable precautions to protect confidential information when she transmitted protected health information in a non-HIPAA compliant email. Licensee violated ORS 675.070(2)(d)(A), unprofessional conduct, by engaging in conduct that is contrary to recognized standards of ethics of the psychological profession. Licensee was reprimanded, ordered to complete three hours of continuing education on confidentiality of social media and three hours of continuing education on boundaries of competence, as well as pay a civil penalty of \$1,000.

**Jacob J. Mahon, Ph.D.** (Applicant), **DEFAULT ORDER**, effective March 8, 2019. Applicant submitted an application for licensure to the Board on May 6, 2018 wherein he answered "no" to the question regarding whether he had "...ever been arrested for, or charged with, any misdemeanor or felony?" Applicant was subsequently arrested on or about September 30, 2018, and later charged with one count of Driving Under the Influence of Intoxicants (DUII). Applicant waited until November 1, 2018 to inform the Board via email of his conviction. Applicant later clarified that he was not actually convicted, but qualified for diversion. By failing to immediately notify the Board of his arrest and later criminal charge for DUI, Applicant violated ORS 675.070(2)(d), unprofessional conduct, ORS 675.070(2)(f), material misrepresentation in attempt to obtain a license, and OAR 858-010-0020(5) and (6). Applicant was reprimanded and ordered to pay a civil penalty of \$200.

**Stephen J. Pethick, Ph.D.** (Licensee), **STIPULATED ORDER**, effective March 8, 2019. Client A presented to Licensee by way of a physician referral. Licensee conducted a psychological assessment and prepared a written diagnostic evaluation report. Licensee's report states that he administered several assessment instruments to Client A. Licensee's report also states that he spoke with Client A's current psychotherapist via telephone. These statements are not true. In fact, Licensee did not administer the afore-identified instruments to Client A, and he did not speak with Client A's psychotherapist. Licensee violated ORS 675.070(2)(d)(A), unprofessional conduct, by preparing a written evaluation report that contained substantive, but false, information, and ES 3.04(a), Avoiding Harm, in that Licensee prepared a written report that contained false information pertaining to Client A that was provided to other health care professionals. Licensee was reprimanded.

**Laura Geczy-Haskins, Psy.D.** (Respondent), **STIPULATED ORDER**, effective March 8, 2019. Respondent started her work as a supervised psychologist resident 49 days before her residency supervision contract was approved. From September 11, 2017 until October 30, 2017, Respondent provided psychological services to clients when she did not hold a license, and was not operating under an approved residency supervision contract. Respondent engaged in conduct that constitutes the practice of psychology without a license, in violation of ORS 675.020(1)(a)(b), ORS 675.070(2)(h), and OAR 858-010-0036(2)(a). Respondent was reprimanded and ordered to pay a civil penalty of \$1,000.

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## Enforcement Actions, Cont.

**John T. Stacey, Ph.D.** (Licensee), **STIPULATED ORDER**, effective March 8, 2019. Licensee provided mental health professional services to Client A, an adult female, over a number of years. On one occasion, Licensee hugged Client A and kissed her on the lips at the end of a therapy session, which caused Client A to experience mental and emotional shock, fear, anger and confusion. Client A subsequently left Licensee's practice. Licensee later called Client A and asked her to remain as a client, but Client A was upset by the boundary violation and sought another therapist. Licensee violated ORS 675.070(2)(d)(A), unprofessional conduct; ES 3.02, Sexual Harassment, in that Licensee initiated physical sexualized contact with Client A at the end of a therapy session, which took advantage of his position of power in regard to the client, that was both unwelcome and offensive; and ES 3.04(a), Avoiding Harm. Licensee's license was suspended for 90 days, and he was ordered to pay a civil penalty of \$1,000.

**John D. Thickins, Psy.D.** (Licensee), **DEFAULT ORDER**, effective March 8, 2019. Licensee met with Client A, an adult female, over the course of 16 psychotherapy sessions. It was Licensee's custom to give a hug to Client A at the end of each session. At the end of the last session, Licensee gave Client A his customary hug, but also initiated more prolonged and intimate contact by stroking her face with his hand, which caused Client A to experience extreme emotional and mental discomfort. Licensee's conduct violated ORS 675.070(2)(d)(A); ES 3.02, Sexual Harassment, in that Licensee initiated physical sexualized contact with Client A at the end of a therapy session, which took advantage of his position of power in regard to the client that was both unwelcome and offensive; and ES 3.04 (a), Avoiding Harm, in that Licensee failed to take reasonable steps to avoid harming his client. Licensee's license was suspended for 180 days, and he was ordered to pay a civil penalty of \$2,000. **Ψ**

## Mandated Reporting of Licensed Healthcare Professionals

By LaRee Felton, Warren Foote, Peter Grover, & Cliff Johannsen

It has come to the Board's attention that some Oregon licensed psychologists are expressing confusion over this statutory reporting requirement. While the Oregon Board of Psychology (Board) cannot give advice in any specific circumstance, we offer the information below to assist in making these judgments. It should be self-evident that this is complex.

### **Background**

- House Bill (HB) 2059 was introduced during the 2009 Legislative Session at the request of the House Interim Health Care Committee. This was in response to an incident in 2004 where a physician that was part of a group practice molested an anesthetized patient and other professionals who were aware of the incident did not report it.
- The Bill was signed by Governor Kulongoski on June 25, 2009 and became effective on January 1, 2010.
- ORS 676.150, resulting from HB 2059, requires that specified healthcare licensees, including psychologists, must report other licensees' prohibited or unprofessional conduct within 10 days.<sup>1</sup> It also requires self-reporting of specified criminal activity, to include a conviction of a misdemeanor or felony, or an arrest for a felony crime.
- ORS 676.150(1)(d) creates a legal duty to report and subjects those who fail to report to not only disciplinary action by the Board, but also criminal prosecution (Class A Misdemeanor).
- The Board has adopted via OAR 858-010-0075 the American Psychological Association's (APA) "Ethical Principles of Psychologists and Code of Conduct," effective January 1, 2010, with amendment as of January 1, 2017, as the code of professional conduct applicable to all licensees, residents and applicants of the Board.
- APA Ethical Standard (ES) 1.04, Informal Resolution of Ethical Violations, and ES 1.05, Reporting Ethical Violations, attempt to strike a balance between bringing an ethical violation to the attention of another psychologist and a duty to report if an ethical violation has substantially harmed another person or is likely to do so and "Is not appropriate for informal resolution..."

<sup>1</sup> See also ORS 675.145.

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## Mandated Reporting of Licensed Healthcare Professionals, Cont.

- The Board must investigate reports of prohibited or unprofessional conduct made against psychologists in accordance with statute and Board rules.
- The Ethical Principles are by necessity concise and abstract. Extensions of the APA Ethical Principles are available in a variety of published reference books and guidelines. However, these are not binding on an adjudicating body (the Board), which must apply the Principles to specific fact patterns contained in complaint investigations. The Board has promulgated such extensions of the Ethical Principles as advisory policies (disciplinary guidelines, cultural competence, social media, disciplinary supervision), which serve to inform the Board, assist in making consistent decisions in disciplinary matters, and informing licensees. Policies are documents internal to the Board, but available for review by licensees and the public. They are generally posted on the Board website for continuing education purposes.
- As a reminder, psychotherapist-patient privilege still applies. Psychologists must obtain consent to report violations learned of in the course of confidential patient communications.

### Implementation

- There is some apparent discrepancy between the APA Ethics Code's encouragement of informal resolution and state law (ORS 676.150 about reporting unprofessional or prohibited conduct). When is informal resolution appropriate? When is it not?
- In general, there is no way to resolve the fundamental conflict between the State reporting law and the “informal resolution” element of the APA Ethical Principles. Such is the nature of a true legal/ethical dilemma.
- The statute and rules do not have to be read as completely conflicting. A psychologist could both bring the conduct to the attention of the other health provider, and also report the conduct within 10 working days. What a psychologist should not do is to consider the matter resolved and not report, unless the psychologist determined that they misunderstood the situation and there was in fact, no violation. Then the psychologist would be well advised to prepare a memo for their own records detailing their thought process and, if in doubt, report and let the Board do its fact-finding job.
- The statute requires reporting to the Board of “unprofessional conduct” and “prohibited conduct.” Prohibited conduct is pretty narrowly connected to criminal behavior. The unprofessional conduct definition<sup>2</sup> is very broad and subject to interpretation. Much of the time, informal resolution of common ethical dilemmas will not have an intersection with the reporting statute.
- When a licensee is confronted with an apparent conflict between the ethical standard to resolve an ethical violation by another psychologist through informal resolution and the statutory duty under ORS 676.150 to report unprofessional conduct, the statutory duty to report has more legal authority than the ethical standard, which is adopted by Board rule. A failure to report carries with it a criminal penalty (a class A misdemeanor, ORS 676.150(6)), as well as possible disciplinary action by the Board. But licensees should keep in mind that the statute requires reporting to the Board. It does not necessarily follow that the Board will impose a sanction on the conduct. Any credible report will trigger an investigation and the usual same due process procedures associated with any complaint to the Board or subsequent administrative disciplinary action.
- Psychologists’ ethical obligation when they encounter a conflict between ethics and law is addressed in APA Ethical Standard 1.02: If psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.

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<sup>2</sup> See ORS 675.070(2)(d).

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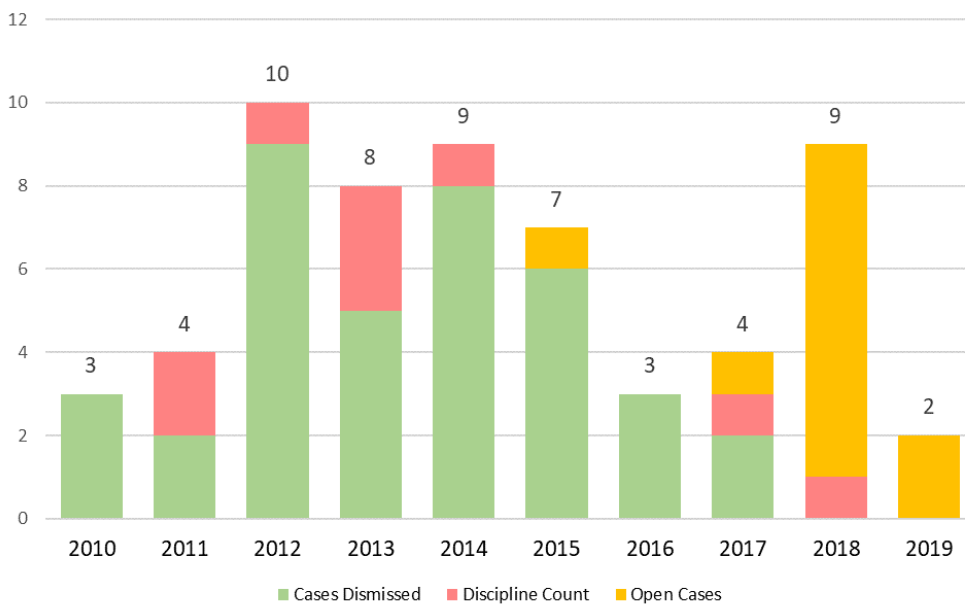
## Mandated Reporting of Licensed Healthcare Professionals, Cont.

### Experience

As of April 2019, the Board has received a total of 59 mandatory reports since the reporting requirement took effect in 2010. Out of these reports, 9 have resulted in disciplinary action (15%), and 4 were issued a 30-day letter (where a licensee is asked to respond to specific questions) but subsequently dismissed.

Year	Mandatory Reports Received	Cases Dismissed	Open Cases	Discipline Count
2010	3	3	0	0
2011	4	2	0	2
2012	10	9	0	1
2013	8	5	0	3
2014	9	8	0	1
2015	7	6	1	0
2016	3	3	0	0
2017	4	2	1	1
2018	9	0	8	1
2019	2	0	2	0
<b>Total</b>	<b>59</b>	<b>38</b>	<b>12</b>	<b>9<sup>3</sup></b>
%	100%	65%	20%	15%

Mandatory Reports Received by Year



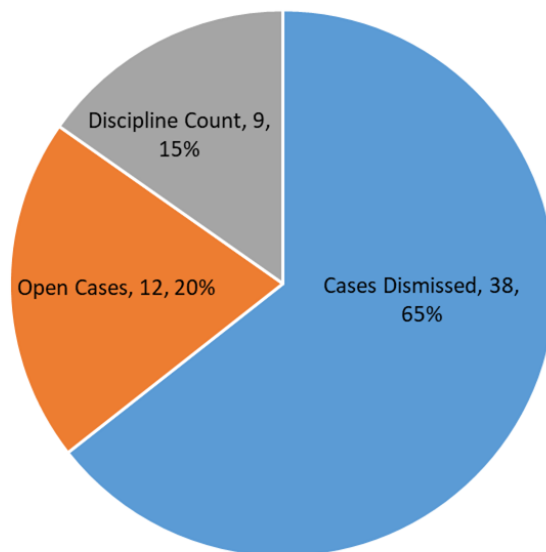
<sup>3</sup> For one particular case, two reports made against the same practitioner resulted in one combined Stipulated Order.

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## Mandated Reporting of Licensed Healthcare Professionals, Cont.

\*2019 figures are current as of February, 2019.

Mandatory Report Outcomes as of February 2019



### Summary of Disciplines

#### 1) Case #2011-032—STIPULATED ORDER, 9/23/11

- Basis for Action:
  - ◊ Unspecified Board concerns.<sup>4</sup>
- Discipline Imposed:
  - ◊ Surrendered license while under investigation.
  - ◊ Must never reapply in Oregon.

#### 2) Case #2011-069<sup>5</sup>—STIPULATED ORDER, 3/30/12

- Basis for Action:
  - ◊ Licensee relapsed after 23 years of abstinence from substances.
  - ◊ Violation: ORS 675.070(2) (a), Impairment.
- Discipline Imposed:
  - ◊ Refrain from alcohol and substances, except for medical emergency.
  - ◊ Submit to random urine screening tests for alcohol and opioids at his own expense.
  - ◊ Continue to receive treatment and follow treatment recommendations

<sup>4</sup> As part of the settlement agreement in this case, the specific information regarding the Board's concerns did not become a part of the public record.

<sup>5</sup> Subsequently, a Stipulated Order was issued on 9/14/17 wherein Licensee agreed to surrender his license under investigation, pay a civil penalty of \$3,000, and close his practice. Case #2016-026, 2017-015, and 2017-022 involved violations ORS 675.070(2)(d) (A), Immoral or unprofessional conduct or gross negligence in the practice of psychology; ES 2.01, Boundaries of Competence; ES 3.04, Avoiding Harm; ES 3.05, Multiple Relationships; ES 3.08, Exploitive Relationships; ES 3.10, Informed Consent; ES 9.01, Bases for Assessments; ES 10.01, Informed Consent to Therapy; and ES 10.03, Group Therapy.

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## Mandated Reporting of Licensed Healthcare Professionals, Cont.

- ◇ Participate in group treatment.
- ◇ Consent to disclosure of complete medical file to the Board upon request.
- ◇ Meet with Board representative once a year to discuss compliance with terms of Order.

### 3) Case #2013-006—STIPULATED ORDER, 2/20/14

- Basis for Action:
  - ◇ Use of cocaine while employed as a staff psychologist at Oregon State Hospital.
  - ◇ Workplace related performance issues at OSH.
  - ◇ Violations:
    - \* ES 2.06, Personal problems and conflicts
    - \* ORS 675.070(2)(a), Impairment
- Discipline Imposed:
  - ◇ Surrendered license while under investigation.

### 4) Case #2012-035—CONSENT AGREEMENT, 7/24/15

- Basis for Action:
  - ◇ Unspecified Board concerns.<sup>6</sup>
- Discipline Imposed:
  - ◇ Licensee may reactivate her license after completing continuing education requirements.
  - ◇ Practice under supervision for a minimum of 12 months.

### 5) Case #2013-056<sup>7</sup>—STIPULATED ORDER, 12/12/15

- Basis for Action:
  - ◇ Pattern of incompetent practice revealed during OSH audit of Licensee's evaluations. Includes grammatical errors, incomplete and run-on sentences, unexplained abbreviations, cutting and pasting of large sections of information from previous reports (sometimes from documents that were several years old) without attribution or comment, misusing the HCR-20, failing to identify sources of information, failing to provide context for assessments and tools used in reports, and failing to provide a clear referral or to otherwise identify the purpose for each evaluation report.
  - ◇ Violations:
    - \* ES 2.01, Boundaries of Competence
    - \* ES 3.04, Avoiding Harm
    - \* ES 9.01, Bases for Assessment
- Discipline Imposed:
  - ◇ Surrendered license while under investigation.
  - ◇ Must not reapply in Oregon for a minimum two years

<sup>6</sup> As part of the settlement agreement in this case, the specific information regarding the Board's concerns did not become a part of the public record.

<sup>7</sup> Previously, Licensee was reprimanded and ordered to practice under supervision for two years, obtain personal psychotherapy for at least six months, and take a CE course on ethics and boundaries via a Stipulated Order issued 7/14/09. Case #2008-017 involved violations of ORS 675.070(2)(d)(A), Unprofessional Conduct; ES 2.01, Boundaries of Competence; 2.03, Maintaining Competence; and 3.04, Avoiding Harm.

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## Mandated Reporting of Licensed Healthcare Professionals, Cont.

### 6) Case #2016-047 & 2017-033<sup>8</sup>—STIPULATED ORDER, 5/11/18

- Basis for Action:
  - ◇ Licensee spoke to a client in regard to his ethnicity in a manner that was demeaning to him based on his race and culture.
  - ◇ Licensee told client to stop all contact with her husband. Licensee told the client that she was “stinking up the room” and subsequently opened the door and asked her to leave (Licensee denied this allegation).
  - ◇ Licensee used the designation “CBIS” and “Certified Brain Injury Specialist” which is not appropriate.
  - ◇ Violations:
    - \* ORS 675.070(2)(d)(A), Unprofessional Conduct
    - \* ES 3.03, Other Harassment
    - \* ES 3.04, Avoiding Harm
    - \* OAR 858-010-0062, Designation of Credentials
- Discipline Imposed:
  - ◇ Reprimand
  - ◇ Minimum 12 months of supervised practice
  - ◇ Civil penalty of \$1,000

### 7) Case #2013-021 & 2014-005<sup>9</sup>—STIPULATED ORDER, 5/11/18

- Basis for Action:
  - ◇ Boundary violations including sitting in close proximity to client (PTSD and history of sexual abuse) and holding her hand, restraining client and not allowing her to leave the room during sessions and physically restraining client while she was in a dissociated state, and driving client home in his personal vehicle on multiple occasions. Failure to effectively treat client.
  - ◇ Licensee provided a letter to client’s PCP recommending prescription of benzodiazepine and indicated that he was willing to store client’s medications in his office and provide it to her as needed. Licensee admitted that he stored medications for 3-4 other patients.
  - ◇ Violations:
    - \* ORS 675.070 (unspecified)
    - \* ES 2.01, Boundaries of Competence
    - \* ES 2.04, Bases for Scientific and Professional Judgments
    - \* ES 3.04, Avoiding Harm
    - \* ES 3.05, Multiple Relationships
    - \* ES 10.10, Terminating Therapy
- Discipline Imposed:
  - ◇ Reprimand
  - ◇ Minimum three years of supervised practice
  - ◇ Civil penalty of \$5,000

<sup>8</sup> Only Case #2017-033 was a mandatory report; it was combined with Case #2016-047 into one Order.

<sup>9</sup> Both cases were mandatory reports; these were combined into one Order.

*(continued on next page)*

## Mandated Reporting of Licensed Healthcare Professionals, Cont.

### 8) Case #2018-009—STIPULATED ORDER, 9/14/18

- Basis for Action:
  - ◇ Licensee engaged in a multiple relationship and sexual intimacies with a young adult male client with a history of serious mental health diagnoses and who was recently hospitalized for an attempted suicide. Licensee made verbal and physical advances to the client and solicited him on repeated occasions to engage in sexual acts with her while she exploited client's vulnerabilities as a client relative to her position as a counselor and adult authority figure for her own prurient interests. Licensee conducted therapy sessions with client away from the clinical setting, to include taking long walks with him, and initiating physical contact with him during clinical sessions and developing a personal relationship with him that could reasonably be expected to impair her objectivity, competence or effectiveness in performing her function as a psychologist, or otherwise risk exploitation or harm to the client.
  - ◇ Violations:
    - \* ORS 675.070(2)(d)(A), Immoral or unprofessional conduct or gross negligence in the practice of psychology.
    - \* ES 3.02, Sexual harassment
    - \* ES 3.04, Avoiding Harm
    - \* ES 3.05, Multiple Relationships
    - \* ES 3.08, Exploitive Relationships
    - \* ES 10.05, Sexual Intimacies with a Current Therapy Client
    - \* ES 10.08, Sexual Intimacies with a Former Therapy Client
- Discipline Imposed:
  - ◇ License revocation
  - ◇ Civil penalty of \$60,000
  - ◇ Licensee not prohibited from reapplying for licensure after two years Ψ

## New CE FAQs

The Board has identified some areas confusion that licensees have encountered when selecting or documenting their course of continuing education (CE). These FAQs have been added to the Board's online [CE Overview](#), and are included here for convenience.

**Q: I completed most of my home study course during one CE reporting period, but did not finish it until the next reporting period. In which period do I count it?**

**A:** The date listed on your certificate of completion reflects the correct reporting period in which to claim credit, regardless of when you purchased or completed work towards the course.

**Q. I am considering a course that is APA-approved. Doesn't that automatically qualify?**

**A.** No. Firstly, this is a misnomer. The American Psychological Association (APA) approves *sponsors* of CE, but does not approve sponsors' individual CE programs. You still need to ensure that the course meets the Board's program prerequisites, falls into a qualifying program category, and meets all other CE requirements. APA-approved sponsors frequently also offer education related to various other professions. For example, an APA-approved sponsor that is also approved by the Commission on Dietetic Registration may offer a course on nutrition and vitamins, which is not qualifying psychology subject matter. Similarly, APA approval does not negate the requirement for a qualified instructor, sufficient certificate of attendance, home-study credit limitation, etc.

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## New CE FAQs, Cont.

### Q. How do I claim lecturer credit if I presented along with other professionals?

**A:** You may only claim “L- Lecturer” credit for the time that you actually presented. For example, if you presented for only a half hour out of a one-hour presentation, you may claim lecturer for 0.5 credits plus up to a maximum one credit preparation time, for a total of up to 1.5 credits. For the remainder of the presentation, you may claim credit the same way you would claim other types of credit, so long as you obtain the requisite documentation of attendance (a sufficient certificate of attendance).

### Q. Can I claim credit for reading books or journal articles that are older or peripheral to psychology?

**A.** Remember, in order to qualify, the subject matter must be substantive psychological issues that directly contribute to your professional competence as a psychologist. This precludes obsolete/superseded methodologies, or “pop psychology” subjects that are not empirically-based or peer-reviewed.

### Q. What does it mean for my article or book to be “published”?

**A.** To qualify for CE credit, an article must be published by a recognized professional or scholarly journal. A book must be published by a publishing company appropriate to the field of psychology. To self-publish an article or book on your own personal or practice website (or that of a colleague) does not meet this criteria.

### Q. Is it acceptable for my study group to consist of clinical case consultation?

**A.** A group meeting whose primary purpose is case consultation (as opposed to an educational/didactic purpose) is not accepted for CE credit. There is some crossover when case studies are used as an educational approach, and in that case the aim of the meeting would still be educational (and thus would qualify). Another helpful distinction is that a qualifying study group prepares a study topic and selects educational aims and reading materials in advance. In terms of documentation, the group’s meeting minutes should be at a summary level, but must provide enough detail for a reviewer to determine that the meeting contained qualifying study group content and covered substantive psychological subject matter in an educational manner. ♣

## 2019 CE Audit

Continuing Education (CE) Audit notices for the 2016-2018 reporting period will be sent out mid-April, 2019 to selected odd-numbered licenses. The Board randomly audits eligible licensees who renewed during the prior year for CE compliance. Selected licensees are notified by both letter and email, and are required to submit within 60 days their CE audit report and evidence of completion for CE activities completed during their prior two-year renewal period.

**IMPORTANT:** Licensees are required to keep their contact information current with the Board. Licensees who do not receive their notice due to unreported address or email changes are not exempt from CE Audit deadlines.

### Common CE Issues

As CE materials are audited, there are some areas where there is common confusion among licensees:

#### Hardship Exemptions

The Board may grant exemptions to the CE completion requirements in cases of documented hardship; however, the Licensee must report the hardship *as soon as practicable*. Hardship exemption requests received *with audit materials* are not considered timely requests. Do not wait until you are audited to disclose a deficiency due to hardship.

#### Reporting Outside of Renewal Period

In order to report CE for the renewal period, it must *occur* during the renewal period; CE completed during a new licensee’s grace period, or the days preceding or following your renewal period are *outside* of your renewal period and cannot be counted during that period. In other words, CE credits cannot be pushed forward or backwards between periods.

Ex.: A new licensee is issued her initial license on 02/02/19 and her first renewal falls on 04/30/19. She completes 4 CE credits on 03/12/19. These credits *are not countable* towards her CE requirement as they occurred *before* her renewal period begins, on 04/30/19.

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## 2019 CE Audit, Cont.

### Ethics CE

The fundamental requirement for ethics CE is that the program predominantly addresses *ethics, ethical issues, and/or Oregon State laws and rules*. Common mistakes include:

Claiming HIPAA as ethics CE. While HIPAA is a federal law and countable as general CE, it does not qualify for *ethics* credit with the Board, as it is a **Federal**, not **Oregon** State, law.

Claiming a course that predominantly pertains to an issue (e.g. suicide), but is not substantively about ethics surrounding the issue. Just because a program title may contain adverbs such as “ethically” does not mean it is an ethics course. All substantive psychology courses will contain some aspect of the ethics code; however, ethics needs to be the primary subject matter of the course to qualify as ethics credit.

### Pain Management Requirement

This must be completed on your first full renewal, i.e., the first time you are required to report CE. Licensees are required to complete the one-time pain management course through the Oregon Pain Management Commission **and** 6 credits of other pain management CE.

Ex.: A new licensee is issued his initial license on 08/10/19, and he first renews on 10/31/19 because his birth month is October. Therefore, his first CE reporting period is 11/01/19 to 10/31/21, and he must complete the pain management requirement within this timeframe.

### Insufficient Documentation of CE

Licensees are encouraged to read the CE material disseminated by the Board with the audit notice, review the [Continuing Education](#) page of our website, and become familiar with [OARs](#) regarding CE. The rules outline specific documentation to include for each category. If you do not submit sufficient documentation, you will receive a status memo outlining deficiencies and be given 30 days to submit additional documentation. It is the Licensee’s responsibility to maintain record of CE for two years from the end of their renewal period.

Most recently, there have been updates to the Board’s [CE Overview](#) available on the website to reflect Licensee feedback regarding the Continuing Education Audit process. These changes are included in this newsletter, under CE FAQs.

As a reminder, the public session of Board meetings address policy changes, not specific licensee audit issues. Board meetings are not a public forum to address personal grievances and Board members cannot comment on them in public session. Ψ

## Residency Contracts

The Board has noticed an increased number of applicants beginning residency prior to receiving an approved residency contract. Starting a residency without a Board-approved contract is considered unlicensed practice. This can result in a Board investigation and possible disciplinary action to both the applicant and the applicant’s licensed supervisor. The disciplinary action can include, but is not limited to, a reprimand and/or civil penalty based on the Board’s discretion.

To begin a residency, applicants must have an approved application for licensure as well as Board-approved residency contract. Once the Board approves a residency contract, the applicant will be notified via a letter from the Board. **Please, do not begin your residency before you have received the approval letter!**

Supervisors are responsible for verifying with the applicant the status of their application and residency contract. Prior to allowing an applicant to begin working, the supervisor should verify that the residency contract has been approved by the Board. Supervising an applicant without a Board-approved residency contract can result in a Board investigation and possible disciplinary action against the supervisor. So please remember to wait until the Board has approved your residency contract before beginning your residency.

- Allison McGonagle, Compliance Specialist, Mental Health Regulatory Agency Ψ

## New Staff

The Boards have a new, limited duration office specialist. We would like to welcome Lynnette Hunter. She has worked for ODOT, Parks & Rec., Oregon Health Plan, and Marion County Public Works. She enjoys archival projects and has worked with the Madras Police Department, Marion County Public Works, and the Forestry Department to convert their files to electronic documents. In her spare time, she likes to fish, hike, and go to flea markets. She also breeds Persian cats and is a devoted Packer's fan. Ψ

## Obituaries

### John D. Atkinson III, Ph.D.

**September 21, 1940—March 2, 2019**

The Board would like to honor and acknowledge the passing on John D. Atkinson III, Ph.D. of Corvallis. He was a University of Oregon alumnus with a psychology degree specializing in Special Education. Born in San Francisco, CA in 1940 and initially licensed in Oregon in 1983, Dr. Atkinson had a career that spanned over 35 years. His family noted that tenacity was one of his key character traits; though deeply intelligent, John suffered from severe dyslexia which presented what, for some, would have been an insurmountable challenge. Instead, he worked for ten years to complete his Ph.D. and became one of the most beloved psychologists in the Willamette Valley. He is survived by his loving wife, Kris Wolters, daughter Ami Atkinson Combs (Jesse Combs), sons Mark Atkinson (Scott Floyd) and Matthew Atkinson (Elizabeth Fujii), and grandsons Sam Atkinson Combs and Will Atkinson Combs, as well as many dear friends.

### Robert Cooley, Ph.D.

**March 12, 1943—November 19, 2018**

Robert Ferguson Cooley was born in 1943 in Bogota, Colombia. The family subsequently moved to the McKenzie River; Rob's lifelong passion for rivers and rafting developed during his childhood on the McKenzie. Rob received his bachelor's degree from Pomona College in California and his Ph.D. in psychology from the University of Oregon. As a psychologist, Rob focused on adolescents and families. In 1988 he founded Catherine Freer Wilderness Therapy Expeditions for adolescents, an outdoor therapy program. The program was named for his dear friend Catherine, a world-class mountain climber. The Freer Program became a highly-regarded outdoor treatment program for adolescents. In 2014, Rob was awarded the highest recognition given by the Outdoor Behavioral Healthcare Industry Council – the Eagle award – with special recognition for his pioneering work in outcomes research, which is now standard practice. Rob is survived by Ingrid, by his four children, their spouses and partners, and five grandchildren, as well as Rob's two sisters.

### Bonnie Witkin-Stuart

**January 18, 1961—March 15, 2019**

Bonnie was born to Ruth and Bernie Witkin in Brooklyn, NY on January 18, 1961, the youngest of five children. Bonnie earned her PhD in counseling psychology from the University of Oregon; her dissertation was a "Qualitative Study of Mothers in Academia." Bonnie's rewarding career included positions as a researcher, a professor at Pacific University where she started the school's counseling program, and a fully engaged psychologist. Her interest in psychology, health and wellness, mindfulness, meditation, and yoga led her to co-create the Eugene Center for Mindful Living. She cultivated deep and meaningful connections, lived her life to the fullest, and engaged in helping others to do the same. Bonnie is survived by her life partner Brandt, their devoted children Alani and Noah, sister Lynn, brothers Steven, Stanley, and Harry, nieces and nephews, and grandnieces and grandnephews. Ψ

## Upcoming Events 2019

### April

4/5: **Oregon Jurisprudence Examination\***  
4/18: Consumer Protection Committee Meeting  
4/19: Education Committee Meeting

### May

5/3: **Oregon Jurisprudence Examination\***  
5/10: **Board Meeting**  
5/17: Education Committee Meeting  
5/27: Office Closed for Memorial Day

### June

6/7: **Oregon Jurisprudence Examination\***  
6/20: Consumer Protection Committee Meeting  
6/21: Education Committee Meeting

### July

7/4: Office Closed for Independence Day  
7/11: **Oregon Jurisprudence Examination\***  
7/12: **Board Meeting**  
7/19: Education Committee Meeting

**Reminder!** Please make sure to update your email address if it changes so that you continue to receive correspondence. Notify us right away- but not more than 30 days- of any change in your contact information.

Please use our [Contact Information Change Form](#) Ψ

OBOP News is the official newsletter of the Oregon Board of Psychology and is edited by board staff. Please visit our website at [www.Oregon.gov/psychology](http://www.Oregon.gov/psychology), email, or contact us with any comments or suggestions.

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