

# TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



## MEMBERS OF THE BOARD

John Bielamowicz, Chair

Ronald S. Palomares, Ph.D., Vice-chair

Herman B. Adler, M.A.

Ryan T. Bridges

Jamie Becker, Ph.D.

Jeanette Deas Calhoun, Ph.D.

Susan Fletcher, Ph.D.

Sangeeta Singg, Ph.D.

Andoni Zagouris, M.A.

Diane Moore  
Board Administrator

## Texas State Board of Examiners of Psychologists Meeting Agenda

March 31, 2021, 9:00 a.m.

Video Conference via Zoom

Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the March 31, 2021 meeting of the Texas State Board of Examiners of Psychologists will be held by videoconference call, as authorized under Texas Government Code section 551.127. There will be no physical meeting location open to the public so long as the disaster declaration is in effect.

Members of the public will have access and a means to participate in this meeting, by two-way communication, by entering the URL address <https://us02web.zoom.us/j/87060483308> into their web browser or by calling (346) 248-7799 and entering the **webinar ID 870 6048 3308**. Additional telephone numbers and videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at [www.bhec.texas.gov](http://www.bhec.texas.gov) prior to the meeting. A recording of the meeting will be available after the meeting is adjourned. To obtain a recording, please submit a request to [open.records@bhec.texas.gov](mailto:open.records@bhec.texas.gov). For public participants, once the public comment item is reached on the agenda after the meeting convenes, the presiding officer will ask those joining by computer to use the "raise hand" feature to indicate who would like to make a public comment. Those individuals who raise their hand will then be unmuted to give public comment. Once all of the individuals with raised hands have been given an opportunity to make public comment, the individuals appearing by telephone will be unmuted and asked whether they would like to make a public comment. When making a public comment, please identify yourself and whether you are speaking individually or on behalf of an organization. All public comments will be limited to 3 minutes, unless otherwise directed by the presiding officer. In lieu of providing public comment during the meeting, you may submit written public comments via email to [General@bhec.texas.gov](mailto:General@bhec.texas.gov) in advance of the meeting. The written public comments received will be submitted to the board members for their consideration during the meeting, but will not be read aloud.

In the event Governor Greg Abbott's March 13, 2020 disaster declaration is not renewed or expires prior to March 31, 2021, then pursuant to Tex. Gov't Code Ann. §551.127, notice is hereby given that one or more Board members may appear at the scheduled meeting via videoconference call, but the presiding officer will be physically present at 333 Guadalupe St., Ste. 3-900, Austin, Texas 78701. This location will be open to the public only in the event the March 13<sup>th</sup> disaster declaration is not renewed.

**\*Topic requiring either agency action or discussion.**

Please note that the Board may request input during the meeting from any interested parties or members of the public during its discussion of an agenda item.

If you are planning to attend this meeting and need auxiliary aids, services or materials in an alternate format, please contact the Board at least 5 working days before the meeting date. Phone: (512) 305-7700, E-MAIL: [general@bhec.texas.gov](mailto:general@bhec.texas.gov), TTY/RELAY TEXAS: 711 or 1-800-RELAY TX.

The Board may go into Executive Session to deliberate any item listed on this agenda if authorized under Texas Open Meetings Act, Government Code, Ch. 551.

The Board may discuss and take action concerning any matter on the agenda and in a different order from what it appears herein.

### **Meeting Agenda for March 31, 2021, 9:00 am**

1. Call to Order – Roll Call (*Bielamowicz, Chair*)
2. Public Comments - Public comment is limited to three (3) minutes per individual, unless otherwise directed by the Board Chair.
3. Rules Committee (*Becker, Calhoun, and Palomares*)
  - A. 463.10, Licensed Psychologists
  - B. 463.35, Professional Development
  - C. 463.40, Licensing of Person with Criminal Convictions (repeal)
  - D. 463.40, Licensing of Person with Criminal Convictions (new)
  - E. 465.1, Definitions
  - F. 465.2, Supervision
  - G. 465.13, Personal Problems, Conflicts and Dual Relationship
4. Adjournment

**\*Topic requiring either agency action or discussion.**

**Addendum: Additional Videoconference and Telephone Conference Call Information**

Regular meeting of the Texas State Board of Examiners of Psychologists.

When: Mar 31, 2021 9:00 AM Central Time (US and Canada)

Topic: Texas State Board of Examiners of Psychologists March 31, 2021 Board Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87060483308>

Or iPhone one-tap:

US: +13462487799,,87060483308# or +12532158782,,87060483308#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 9128 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592

Webinar ID: 870 6048 3308

International numbers available: <https://us02web.zoom.us/j/87060483308>

Rule: 463.10. Licensed Psychologists.

Action: Adopted Amendments

Comment: The adopted amendment is needed to repeal part of the rule that is unnecessary.

463.10. Licensed Psychologists.

(a) Licensure Requirements. An applicant for licensure as a psychologist must:

- (1) hold a doctoral degree in psychology from a college or university accredited by a regional accrediting organization;
- (2) pass all examinations required by the agency;
- (3) submit documentation of supervised experience from a licensed psychologist which satisfies the requirements of Council §463.11 of this section; and
- (4) meet all other requirements of §501.2525 of the Occupations Code.

(b) Degree Requirements.

(1) For those applicants with a doctoral degree conferred on or after January 1, 1979, the transcript must state that the applicant has a doctoral degree that designates a major in psychology.

(2) For those applicants with a doctoral degree conferred prior to January 1, 1979, the transcript must reflect a doctoral degree that designates a major in psychology or the substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training. A doctoral degree will be considered the substantial equivalent to a doctoral degree in psychology if the training program meets the following criteria:

(A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.

(B) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

(C) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.

(D) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.

(E) The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.

(F) The program must have an identifiable body of students who matriculated in the program.

(G) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12 month period nor more than a 24 month period. Further, this requirement cannot have been obtained in more than two placements or agencies.

(H) The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

(I) The following curricular requirements must be met and demonstrated through appropriate course work:

(i) Scientific and professional ethics related to the field of psychology.

(ii) Research design and methodology, statistics.

(iii) The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Council evidence of competency in each of the four core areas.

(I) Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.

(II) Cognitive-affective basis of behavior: learning, thinking, motivation, emotion.

(III) Social basis of behavior:

social psychology, group processes, organizational and system theory.

(IV) Individual differences: personality theory, human development, abnormal psychology.

(J) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must demonstrate a minimum of 24 hours in his/her designated specialty area.

(3) Any person intending to apply for licensure under the substantial equivalence clause must file with the Council an affidavit showing:

(A) Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;

~~[(B) Information regarding each of the instructors in the courses submitted as substantially equivalent;]~~

~~(B)~~ [(C)] Appropriate, published information from the university awarding the degree, demonstrating that the requirements noted in paragraph (2) of this subsection have been met.

(c) An applicant who holds an active Certificate of Professional Qualification in Psychology (CPQ) is considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their certification be sent directly to the Council from the Association of State and Provincial Psychology Boards (ASPPB), be submitted to the Council in the sealed envelope in which it was received by the applicant from ASPPB, or be submitted to the Council as directed by agency staff.

(d) An applicant who holds an active specialist certification with the American Board of Professional Psychology (ABPP) is considered to have met all requirements for licensure under this rule except for passage of the EPPP and Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their specialist certification be sent directly to the Council from ABPP, be submitted to the Council in the sealed envelope in which it was received by the applicant from ABPP, or be submitted to the Council as directed by agency staff.

(e) The requirement for documentation of supervised experience under this rule is waived for an applicant who is actively licensed as a doctoral-level psychologist in good standing and has been practicing psychology in another jurisdiction for at least five years or can affirm that the applicant has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of

1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum of 1,500 hours) must have been completed after the doctoral degree was conferred. Applicants relying upon this subsection must request that verification of their out-of-state licensure be sent directly to the Council from the other jurisdiction, be submitted to the Council in the sealed envelope in which it was received by the applicant from the other jurisdiction, or be submitted to the Council as directed by agency staff.

(f) Provisional License.

(1) An applicant who has not yet passed the required examinations or is seeking to acquire the supervised experience required under Council rule 463.11 may practice under the supervision of a licensed psychologist as a provisionally licensed psychologist for not more than two years if the applicant meets all other licensing requirements.

(2) A provisional license will be issued to an applicant upon proof of provisional license eligibility. However, a provisional license will not be issued to an applicant who was issued a provisional license in connection with a prior application.

(3) A provisionally licensed psychologist is subject to all applicable laws governing the practice of psychology.

(4) A provisionally licensed psychologist may be made the subject of an eligibility or disciplinary proceeding. The two-year period for provisional licensure shall not be tolled by any suspension of the provisional license.

(5) A provisional license will expire after two years if the person does not qualify for licensure as a psychologist.

Rule: 463.35. Professional Development

Action: Adopted Amendment

Comment: The adopted amendment removes unnecessary language in rule 463.35(e).

#### §463.35. Professional Development

(a) Persons licensed under Chapter 501 are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period they hold a license. At least 6 of these hours shall be in ethics, the Council's rules, or professional responsibility, and another 6 or more hours shall be in cultural diversity. Acceptable cultural diversity hours include, but are not limited to professional development regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio economic status.

(b) Relevancy. All professional development hours shall be directly related to the practice of psychology. The Council shall make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Council may require a licensee to produce course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. A person may not claim professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.

(c) At least half of the professional development hours required by this rule shall be obtained from or endorsed by a provider listed in subsection (f)(1) of this section.

(d) The Council shall not pre-approve professional development credit.

(e) Approved Professional Development Activities. The Council shall accept professional development hours obtained by participating in one or more of the following activities; ~~provided that the specific activity may not be used for credit in more than one renewal period:~~

(1) attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;

(2) teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;

(3) presentation of a program or workshop; and

(4) authoring or editing publications.

(f) Approved Professional Development Providers. The Council shall accept professional development hours from the following providers:



(1) national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; and

(2) other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.

(g) Credit for professional development shall be provided as follows:

(1) For attendance at formal professional development activities, the number of hours pre-assigned by the provider.

(2) For teaching or attendance of a graduate level psychology course, 4 hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.

(3) For presentations of workshops or programs, 3 hours for each hour actually presented, for a maximum of 6 hours per year.

(4) For publications, 8 hours for authoring or co-authoring a book; 6 hours for editing a book; 4 hours for authoring a published article or book chapter. A maximum credit of 8 hours for publication is permitted for any one year.

(h) Professional development hours shall have been obtained during the renewal period for which they are submitted and may not be utilized to fulfill the requirements for more than one renewal period. However, if the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements.

(i) The Council shall accept as documentation of professional development:

(1) for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;

(2) for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education;

(3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course;

(4) for presenters of professional development workshops or programs, copies of the official program announcement naming the licensee as a presenter and an outline or syllabus of the contents of the program or workshop;

- (5) for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;
- (6) for online or self-study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the course, and stating the licensee passed the examination given with the course.
- (j) It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Council. Licensees shall maintain documentation of all professional development hours for 5 years following the renewal period in which those hours were utilized.

Rule: 463.40. Ineligibility Due to Criminal History

Action: Adopted Repeal

Comment: The adopted repeal is necessary as a new rule is being adopted.

~~§463.40. Ineligibility Due to Criminal History.~~

~~Those crimes which TSBE considers directly related to the duties and responsibilities of a licensee are:~~

- ~~(1) — offenses listed in Article 42A.054 of the Code of Criminal Procedure;~~
- ~~(2) — any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;~~
- ~~(3) — any criminal violation of the Psychologists' Licensing Act;~~
- ~~(4) — any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;~~
- ~~(5) — any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;~~
- ~~(6) — any criminal violation of §32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), §32.45 (Misapplication of Fiduciary Property), §32.46 (Securing Execution of Document by Deception), §32.50 (Deceptive Preparation and Marketing of Academic Product), §32.51 (Fraudulent Use or Possession of Identifying Information), §32.52 (Fraudulent, Substandard, or Fictitious Degree), or §32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;~~
- ~~(7) — any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;~~
- ~~(8) — any offense involving the failure to report abuse;~~
- ~~(9) — any criminal violation of §38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;~~
- ~~(10) — any criminal violation involving a federal health care program, including 42-USA §1320a-7b (Criminal penalties for acts involving Federal health care programs);~~
- ~~(11) — any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and~~
- ~~(12) — any attempt, solicitation, or conspiracy to commit an offense listed herein.~~

Rule: 463.40. Licensing of Persons with Criminal Convictions.

Action: Adopted New Rule

Comment: This adopted new rule would standardize Council and all Board rules regarding licensing a person with criminal convictions.

§463.40. Licensing of Persons with Criminal Convictions.

The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

- (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
- (2) a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure;
- (3) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
- (4) any criminal violation of Chapter 501 (Psychologists Licensing Act) of the Occupations Code;
- (5) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
- (6) any criminal violation involving a federal health care program, including 42 USC §1320a-7b (Criminal penalties for acts involving Federal health care programs);
- (7) any offense involving the failure to report abuse or neglect;
- (8) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology;
- (9) any criminal violation of §22.041 (abandoning or endangering a child) of the Penal Code;
- (10) any criminal violation of §21.15 (invasive visual recording) of the Penal Code;
- (11) any criminal violation of §43.26 (possession of child pornography) of the Penal Code;
- (12) any criminal violation of §22.04 (injury to a child, elderly individual, or disable individual) of the Penal Code;
- (13) three or more drug or alcohol related convictions within the last 10 years, evidencing possible addiction that will have an effect on the licensee's ability to provide competent services; and
- (14) any attempt, solicitation, or conspiracy to commit an offense listed herein.

Rule: 465.1. Definitions.

Action: Adopted Amendment

Comment: The adopted amendment is unnecessary and is being repealed.

#### §465.1. Definitions.

The following terms have the following meanings:

- (1) "Adoption evaluation" has the same meaning as assigned by §107.151 of the Family Code.
- (2) "Child custody evaluation" has the same meaning as assigned by §107.101 of the Family Code.
- (3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third-party with the goal of assisting or caring for that third-party or answering a referral question through the use of forensic psychological services.
- (4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.
- (5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.
- (6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, oral or written reports, live or recorded testimony, or any psychological service provided by a licensee concerning a current or potential legal case at the request of a party or potential party, an attorney for a party, or a court, or any other individual or entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).
- (7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial

policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.

(8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants, and any other individual subject to the regulatory authority of the Council.

(9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third-party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.

(10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.

(11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.

~~(12) "Professional standards" are determined by the Council through its rules.~~

~~(12)~~ ~~{(13)}~~ "Provision of psychological services" means any use by a licensee of education or training in psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, or performing research, or teaching to an individual, group, or organization.

~~(13)~~ ~~{(14)}~~ "Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.

~~(14)~~ ~~{(15)}~~ "Recognized member of the clergy," as used in §501.004(a)(4) of the Occupations Code, means a member in good standing of and accountable to a denomination, church, sect or religious organization recognized under the Internal Revenue Code, §501(c)(3).

~~(15)~~ ~~{(16)}~~ "Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.

~~(16)~~ ~~{(17)}~~ "Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.

(17) ~~{(18)}~~ "Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.

(18) ~~{(19)}~~ "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.

(19) ~~{(20)}~~ "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.

465.2. Supervision.

Action: Adopted Amendment

Comment: The adopted amendment will allow for all supervision to be conducted by synchronous remote or electronic means but up to half of the required supervision may be conducted by asynchronous means, e.g. email.

§465.2. Supervision.

(a) Supervision in General. The following rules apply to all supervisory relationships.

(1) Licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.

(2) Licensees shall ensure that their supervisees have legal authority to provide psychological services.

(3) Licensees may delegate only those responsibilities that supervisees may legally and competently perform.

(4) All individuals who receive psychological services requiring informed consent from an individual under supervision must be informed in writing of the supervisory status of the individual and how the patient or client may contact the supervising licensee directly.

(5) All materials relating to the practice of psychology, upon which the supervisee's name or signature appears, must indicate the supervisory status of the supervisee. Supervisory status must be indicated by one of the following:

(A) Supervised by (name of supervising licensee);

(B) Under the supervision of (name of supervising licensee);

(C) The following persons are under the supervision of (name of supervising licensee); or

(D) Supervisee of (name of supervising licensee).

(6) Licensees shall provide an adequate level of supervision to all individuals under their supervision according to accepted professional standards given the experience, skill and training of the supervisee, the availability of other qualified licensees for consultation, and the type of psychological services being provided.

(7) Licensees shall utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. No more than fifty percent of the supervision may take place through remote or electronic means. Licensees may exceed fifty percent remote or electronic supervision if supervision is provided through synchronous audiovisual means. [~~Methods of supervision may include synchronous remote or electronic means.~~]



(8) Licensees must be competent to perform any psychological services being provided under their supervision.

(9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.

(10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.

(b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.

(1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.2525(a)(2)(A), or 501.260(b)(3) of the Occupations Code must be under the supervision of a qualified supervising licensee at all times.

(2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.

(3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Council. A licensee shall inform all supervisees of any disciplinary order restricting the licensee's license and assist the supervisees with finding appropriate alternate supervision.

(4) A supervisor must document in writing a supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.

(5) A supervisor may allow a supervisee, as part of a required practicum, internship, or period of supervised experience required for licensure under Chapter 501, to supervise others in the delivery of psychological services.

(6) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.

(c) Supervision of Provisionally Licensed Psychologists and Licensed Psychological Associates. The following rules apply to all supervisory relationships involving Provisionally Licensed Psychologists and Licensed Psychological Associates.

(1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice unless the provisional licensee is licensed in another state to independently practice psychology and is in good standing in that state.

(2) A Provisionally Licensed Psychologist may, as part of a period of supervised experience required for licensure as a psychologist, supervise others in the delivery of psychological services.

(3) A supervisor must provide at least one hour of individual supervision per week. A supervisor may reduce the amount of weekly supervision on a proportional basis for supervisees working less than full-time.

(d) Supervision of Licensed Specialists in School Psychology interns and trainees. The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and trainees working toward licensure as a specialist in school psychology.

(1) A supervisor must provide an LSSP trainee with at least one hour of supervision per week, with no more than half being group supervision. A supervisor may reduce the amount of weekly supervision on a proportional basis for trainees working less than full-time.

(2) Supervision within the public schools may only be provided by a Licensed Specialist in School Psychology who has a minimum of 3 years of experience providing psychological services within the public school system without supervision. To qualify, a licensee must be able to show proof of their license, credential, or authority to provide unsupervised school psychological services in the jurisdiction where those services were provided, along with documentation from the public school(s) evidencing delivery of those services.

(3) Supervisors must sign educational documents completed for students by the supervisee, including student evaluation reports, or similar professional reports to consumers, other professionals, or other audiences. It is not a violation of this rule if supervisors do not sign documents completed by a committee reflecting the deliberations of an educational meeting for an individual student which the supervisee attended and participated in as part of the legal proceedings required by federal and state education laws, unless the supervisor also attended and participated in such meeting.

(4) Supervisors shall document all supervision sessions. This documentation must include information about the duration of sessions, as well as the focus of discussion or training. The documentation must also include information regarding:

(A) any contracts or service agreements between the public school district and university school psychology training program;

(B) any contracts or service agreements between the public school district and the supervisee;

(C) the supervisee's professional liability insurance coverage, if any;

(D) any training logs required by the school psychology training program; and

(E) the supervisee's trainee or licensure status.

(5) Supervisors must ensure that each individual completing any portion of the internship required for licensure as an LSSP, is provided with a written agreement that includes a clear

statement of the expectations, duties, and responsibilities of each party, including the total hours to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.

(6) Supervisors must ensure that supervisees have access to a process for addressing serious concerns regarding a supervisee's performance. The process must protect the rights of clients to receive quality services, assure adequate feedback and opportunities for improvement to the supervisee, and ensure due process protection in cases of possible termination of the supervisory relationship.

(e) The various parts of this rule should be construed, if possible, so that effect is given to each part. However, where a general provision conflicts with a more specific provision, the specific provision shall control.

465.13. Personal Problems, Conflicts and Dual Relationship.

Action: Adopted Amendment

Comment: The adopted amendment is to clarify the requirements that are currently in the rule.

#### §465.13. Personal Problems, Conflicts and Dual Relationships

(a) In General.

(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.

(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.

(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.

(4) Licensees ~~shall refrain from entering into or~~ withdraw from any professional relationship that conflicts with their ability to comply with all Council rules applicable to other existing professional relationships.

(b) Dual Relationships.

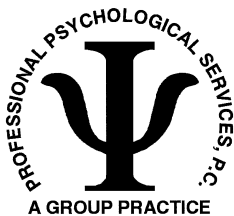
(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.

(2) A licensee ~~shall must~~ refrain from entering into ~~or withdraw from~~ a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client. Additionally, a licensee shall not withdraw from a professional relationship for the purpose of entering into a personal, financial, or other relationship with a patient or client.

(3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.

(4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.

(5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.



## PROFESSIONAL PSYCHOLOGICAL SERVICES, P.C.

A Clinical and Forensic Psychology Practice Group

Tim F. Branaman, Ph.D., ABPP

*Certified a Diplomate by the American Board of Professional Psychology*

Texas State Board of Examiners of Psychologists  
Texas Behavioral Health Council  
Via email to rules@bhec.texas.gov

The comment that follows pertains to proposed additional language to 465.13(b)(2). The context of that language is referenced below. My comment then follows.

465.13(b)(2)

### (b) Dual Relationships

(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.

(2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client. **Additionally, a licensee shall not withdraw from a professional relationship for the purpose of entering into a personal, financial, or other relationship with a patient or client.**

(3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.

### Comment

Proposed new language appears to limit a licensee's alternatives for competently managing potential conflicts of interest as required by ethical standards of the American Psychological Association as well as subsection (3) of TSBEP Rule 465.13(b)(2). **Subsection (3) appears to address this issue by applying ethical standards as well as seeking consultation to determine how to best serve the needs of the patient/client and any emergent potential ethical conflict.**

Moreover, the proposed language appears to conflict with the existing language of 465.13(b)(2), i.e. "A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client." **The existing language of (b)(2) appears to require a licensee to not only refrain from entering such a relationship, if foreseeable, but also to withdraw from such a relationship.** The proposed addition seems to be in direct conflict with this requirement.

The current rule provides sufficient basis for disciplinary action if a licensee has not adhered to rules as presently stipulated. Moreover, as comments from the Texas Psychological Association (TPA) has noted, the proposed language appears likely to create an untenable conflict in some instances of unforeseeable conflict of interest. I agree with TPA's concern. While the existing language provides

guidance and boundaries for the appropriate management of such a conflict that might arise, the proposed language would not only prevent a licensee from handling such a conflict in an ethical manner but make the ethical management of such a situation a rule violation.

Based on my experience with TSBEP as well as my experience in teaching graduate level courses in professional issues and ethics, I am unaware of violations that seem to be anticipated by the proposed language being frequently encountered, as those are most frequently of a sexual nature which are addressed specifically by TSBEP rules later in 465.13(b)(4) and (5). With such a very low frequency of occurrence, the proposed additional language does not seem warranted, aside from the untenable situation it may create for licensees.

I strongly recommend that TSBEP reconsider the addition of the proposed language and withdraw the proposed change to 465.13(b)(2).

Respectfully,

---

Tim F. Branaman, Ph.D., ABPP (Forensic)



March 3, 2021

Texas State Board of Examiners of Psychologists (TSBEP),

The Texas Psychological Association (TPA) represents the voices of over 4,500 psychologists in this state. On behalf of those psychologists, we are writing today to express concerns regarding the proposed amendments to Rule §463.13. We have also included suggested alternative language, which we believe addresses concerns of multiple relationships.

The existing rule language in §463.13(b)(2) appears to be based on the American Psychological Association (APA) Code of Conduct, Section 3.05(a):

*A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.*

The proposed language states:

*Additionally, a licensee shall not withdraw from a professional relationship for the purpose of entering into a personal, financial, or other relationship with a patient or client.*

TPA is concerned the proposed addition to subdivision (b)(2) does not factor in acceptable but unforeseen personal, financial, or other relationships that would be labeled harmful under will the rule. We are not concerned with existing subdivision (b)(5), prohibiting the withdraw from a professional relationship in order to enter into a romantic relationship.

There are numerous examples of unforeseen relationships—a client could live near their psychologist and file a complaint with the HOA about barking dogs, be assigned by a court to probate the will of their psychologist's family member, or a psychologist could be promoted to a senior office position and now oversee their client. These are all examples of unforeseen relationships that actually occurred. In those unforeseen relationships, this new language would prohibit the psychologist from withdrawing from their professional relationship for the purposes of entering into that new relationship, even if entering the relationship is out of the psychologist's control and the psychologist believes that withdrawing would be in the client's best interest.

APA's Code of Conduct already has a way of dealing with these types of unforeseen relationships, which we believe would be better suited than the proposed language, at Section 3.05(b):

*If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person.*





TSBEP Rule  
March 3, 2021

These modifications offer significant advantages:

1. By aligning the language of TSBEP rules with APA Code of conduct, it avoids situations where a psychologist would need to choose between them.
2. It offers greater flexibility to psychologists and their patients to address nuanced situations while emphasizing the best interest of the patient is paramount.
3. It ensures TSEBP can take action if a psychologist fails to prioritize the best interests of the patient.

We appreciate this opportunity to comment and for your careful consideration of our suggestion. Please contact us if you have any questions or concerns.

Sincerely,



Jessica Magee, Executive Director  
Texas Psychological Association



465.13. Personal Problems, Conflicts and Dual Relationship.

Action: Adopted Amendment

Comment: The adopted amendment is to clarify the requirements that are currently in the rule.

#### §465.13. Personal Problems, Conflicts and Dual Relationships

(a) In General.

(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.

(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.

(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.

~~(4) Licensees shall refrain from entering into or withdraw from any professional relationship that conflicts with their ability to comply with all Council rules applicable to other existing professional relationships.~~

(b) Dual Relationships.

(1) A licensee ~~shall~~**must** refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.

(2) A licensee ~~shall~~**must** refrain from entering into ~~or withdraw from~~ a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client. **Additionally, a licensee shall not withdraw from a professional relationship for the purpose of entering into a personal, financial, or other relationship with a patient or client.**

**(3) A licensee shall withdraw from any professional relationship if the licensee would be precluded from entering into the relationship under this rule.**

**(4)** A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.

(54) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.

(65) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.