

These minutes have been approved by the Board on 9.18.2020

**MINUTES OF THE CONFERENCE CALL MEETING OF THE  
BOARD OF PSYCHOLOGY**

July 17, 2020

**1. ROLL CALL and CALL MEETING TO ORDER**

The conference call meeting of the Board of Psychology was called to order by the Chair, Stacy Waldron, at 10:03 a.m. in the State Office Building, 301 Centennial Mall S, Lower Level B Conference Room, Lincoln, Nebraska. Copies of the agenda were emailed to the Board members and other interested parties in accordance with the Open Meetings Law. The following members answered the roll call:

**MEMBERS PRESENT (called in from their agenda noticed locations) (7)**

Stephanie Bruhn, PhD, Member  
Jennifer Dreibelbis, Member  
Tomeka Johnson, Member  
Mark Lukin, PhD, Member  
Connie Petersen, PhD, Member  
Rebecca Schroeder, Member  
Stacy Waldron, PhD, Chair

**MEMBERS ABSENT (0)**

**OTHERS PRESENT**

Kris Chiles, Program Manager, Licensure Unit  
Heidi Weiland, Health Licensing Coordinator  
Melissa Johnson Wiles, Assistant Attorney General  
Trevor Klaassen, DHHS Investigation  
Lori Wall, PhD – Chairperson, NPA

A quorum was present and the meeting convened.

**2. ADOPTION OF AGENDA**

**MOTION:** Bruhn moved, seconded by Lukin, to adopt the agenda. A voice vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: None (0). Motion carried.

**3. APPROVAL OF MINUTES (5.15.2019)**

Deferred to the next meeting

**4. INVESTIGATIVE AND CONFIDENTIAL INFORMATION – Closed Session**

**MOTION:** Bruhn moved, seconded by Lukin, to enter into closed session at 10:10 a.m. for the purpose of hearing discussions of an investigative/confidential nature and for the prevention of needless injury to the reputation of the individuals. Waldron repeated the motion and purpose. A roll call vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: None (0). Motion carried.

10:12 a.m.      Lukin exited the meeting (conflict of interest)  
10:54 a.m.      Lukin entered the meeting  
10:53 a.m.      Klaassen exited the meeting  
10:55 a.m.      Johnson Wiles exited the meeting

**MOTION:** Schroeder moved, seconded by Bruhn, to enter open session at 11:26 a.m. A roll call vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: None (0). Motion carried.

11:26 a.m. Break  
11:36 a.m. Return to open session

**5. REVIEW, RECOMMENDATION, AND REPORT OUT – Open Session (Applications, Mail Ballot Summary Report, and Reinstatements)**

Paul Chleborad – Psychologist – Reinstatement

**MOTION:** Johnson moved, seconded by Lukin, to recommend denial of the reinstatement of his license. The basis of denial: not submitting sufficient evidence to support reinstatement. A roll call vote was taken. Voting aye: Bruhn, Dreibelbis, Johnson, Lukin, Petersen, Schroeder, Waldron (7). Voting nay: None (0). Absent: None (0). Motion carried.

**6. REGULATION REVIEW, DISCUSSION, AND RECOMMENDATIONS (172 NAC 156, AND 157) REGULATIONS STATUS UPDATE (172 NAC 155 AND 158)**

Chiles stated Chapter 155 has been approved by the Board of Health and sent to the attorney general's office for review 5.12.2020. Once the attorney general has approved the regulations, it will be forwarded to the Governor then the Secretary of State and will be effective five days later.

Chapter 156 discussion:

Waldron has been struggling with revising the regulation to the APA code of conduct language. Waldron stated there was a recent Supreme Court hearing which makes it illegal for employers to discriminate because of a person's sex, sexual orientation and transgender status. The court upheld rulings from lower courts that said sexual orientation discrimination was a form of sex discrimination. She believes this is not acceptable in our regulations and that other laws, employment laws, do not include this language. Instead of sexual orientation discrimination, can we just say sex discrimination?

Drebelbis expanded the definition of the meaning of sex.

PM – Dr. Lori Wall, Chairperson of NPA Professional Affairs, stated their view redefined sex for Title 7 which is a Federal Law. Dr. Wall has served on the board of Psychology and has continued to be engaged on this matter. Does it help to look at the Federal and State laws and review the differences in determining the changes to the Nebraska regulations?

Waldron inquired if there are protected classes because of Federal employment laws?

Chiles advised she will follow up with DHHS legal team for the department's perspective.

Drebelbis – we need to know the State's position in order to recommend the changes in the language. Chiles will find out when the State will be discussing this and what states have adopted the APA code of conduct language.

Waldron – she spoke with some chair persons with the ASPPB and they said not all states have adopted the APA language. ASPPB wants us to look at their code of conduct. They are looking at making changes to provide social justice focus. Some states say this would be a conflict on their statutes. We are the only state that is having issues with stakeholder, professionals, legislation to make a referral of changes. Our purpose is to protect the public.

Chiles stated we will review the ASPPB code of conduct and the Supreme Court ruling at our next meeting.

Waldron stated ASPPB has been very helpful and are willing to give us more information to make our decision.

Lukin also advised he has spoken with Alex at ASPPB and they are willing to partner with us to move forward in this matter. Dr Segel also will provide support to help us make a decision.

Chiles advised she will have a copy of the APA code of conduct and create a chart of similarities and differences with ASPPB's code of conduct, the Supreme Court decision documents to see if the definition of sex was changed and the additional information from Lukin from the ASPPB.

PM inquired regarding Mandatory reporting, 172 NAC 5, is there a resource or side by side comparison summary of the changes available? Chiles will follow up to see if any changes. The Governor has approved these on 6.10.20. She will also verify if these changes are in effect.

## **7. NEW BUSINESS**

### **a. COVID-19: Executive Orders and FAQ's:**

<http://dhhs.ne.gov/Pages/COVID-19-Nebraska-Guidance-Documents.aspx>

Executive Order 20-10: <http://govdocs.nebraska.gov/docs/pilot/pubs/eofiles/20-10.pdf>

1. The provisions of Neb. Rev. Stat. § 38-121 regarding credentialing, and its implementing regulations, are hereby temporarily suspended in order to permit individuals who are properly and lawfully licensed to engage in advanced practice nursing, emergency medical services, medicine and surgery, mental health practice, nursing, osteopathy, perfusion, pharmacy, psychology, respiratory care, and surgical assisting in a U.S. state or territory to work in Nebraska during the state of emergency so long as they are in good standing and free from disciplinary action in the states where they are licensed;

3. The provisions of Neb. Rev. Stats. § 38-130, § 38-132, § 38-136, § 38-142, § 38-144 though § 38-147, § 38-151 though § 38-157, § 38-616, § 38-708, § 38-2026, § 38-2032, § 38-2061, § 38-1217, § 38-2223, § 38-2227, § 38-23 18, § 38-2859, § 38-2873, § 38-3211, § 38-3212, § 38-3213, and § 38-1,116 and their implementing regulations, are temporarily suspended, in part, in order to defer continuing competency requirements and license renewal fees for the following practice areas: medicine and surgery (MDs), advanced practice nursing, emergency medical services, mental health, nursing, osteopathy, pharmacy, perfusion, psychology, respiratory care, and surgical assistance and to permit applications for initial licenses for physicians, nurses, and pharmacy-related professions to be processed electronically prior to receipt of the license fee by the Department;

**There is an extension to renew the license until 12.31.20 or once the State of Emergency is over. At that time, the renewal notice will be sent out and they have 90 days to renew their license.**

4. The provisions of Neb. Rev. Stats. § 38-130, § 38-132, § 38-136, § 38-142 though § 38-147, § 38-151 though § 38-157, § 38-616, § 38-708, § 38-2026, § 38-2032, § 38-2061, § 38-1217, § 38-2223, § 38-2227, § 38-23 18, § 38-2859, § 38-2873, § 38-3211, § 38-3212, § 38-3213, and § 38-1,116 and their implementing regulations, are temporarily suspended, in part, to permit applicants for an initial license to practice as registered nurses, licensed practical nurses, physical therapists, psychologists, emergency medical technicians, emergency care providers licensed under the Emergency Medical Services Practice Act, or to practice a profession which is authorized to prescribe controlled substances to receive a license pending the completion of a national criminal history record information check, with submission of fingerprints to the Federal Bureau of Investigation, so long as the professional meets other requirements for licensure and has passed Department-conducted checks of the Nebraska Data Exchange Network for a criminal history in Nebraska;

**The department has issued 1 Provisional Executive Order psychology license.**

5. The requirements of Neb. Rev. Stats. § 38-2026, § 38-2222, and § 38-2851, and their implementing regulations, are suspended, in part, to exempt applicants for licensure as physicians, nurses, and pharmacists from the requirement to submit test scores prior to licensure and permit them to be issued time-limited provisional licenses pending successful examination results or the duration of the emergency, whichever is shorter;

Executive Order 20-27: <http://dhhs.ne.gov/Documents/EO-20-27-Credentialing-of-the-COVID-19-Workforce.pdf>

This executive order expires on 12.31.2020. The two following changes relate to the Psychology profession.

#3. The provisions of the UCA and its implementing regulations requiring that credential holders or students seeking credentials complete courses or training, or take examinations, in person are temporarily deferred until December 31, 2020, solely in order to permit education, training, and testing to continue using electronic or remote technology whenever possible;

#4. The provisions of the UCA and its implementing regulations requiring that persons seeking credentials complete work or training with an onsite supervisor, with face-to-face or direct supervision, or under any type of practice agreement are temporarily deferred until December 31, 2020, solely in order to permit supervisors to provide remote supervision if the supervisor determines this is appropriate;

The Executive Order 20-27 also states the following:

Neb. Rev. Stat. § 38-146(2) authorizes the Department of Health and Human Services (DHHS) to waive continuing competency requirements for credential holders under the Uniform Credentialing Act (UCA) upon the credential holder's request when "circumstances beyond his or her control have prevented completion of such requirements."

The Department will not enforce any limit on the number of continuing education hours obtained online or by home study for renewal or reinstatement of any type of license during the State Declaration of Public Health Emergency. The Department will be as flexible as possible for renewals that take place following the emergency. If licensees obtained online or home study CE hours during the emergency because in-person courses were not available, the Department will accept those CE hours even if the renewal (expiration date) for that profession takes place after the emergency has ended. Communication will be sent to licensees once any subsequent renewal period begins so that licensees know when the limits for online or home study CE are back in place.

**b. Association Correspondence**

- Association of State Provincial Psychology Boards (ASPPB) <http://www.asppb.org>
- PsyPact <https://www.asppb.net/page/PSYPACT>
- American Psychological Association (APA) <http://www.apa.org>
- Nebraska Psychological Association (NPA) <http://www.nebpsych.org>

ASPPB: Dreibelbis – Annual meeting met as a virtual meeting.

PSYPACT: Chiles reported that PSYPACT is live. Two additional states (PA and VA) have joined PSYPACT. The following states are participating in PSYPACT: AZ, CO, DE, GA, IL, MO, NE, NH, NV, OK, PA, TX, UT, and VA. The committee hasn't met recently but are trying to set up a time in August.

APA: No new information presented

NPA: Dr. Wall stated there was a federal movement that stated an individual needed to declare any mental health impairments when renewing their license. Does Nebraska ask this question on renewals? Chiles stated no we don't ask this question on renewal or initial applications.

## **8. UPDATES AND REPORTS**

### **a. Justice Behavioral Health Committee**

Lukin nothing to report at this time other than virtual meeting to be scheduled in the near future.

### **b. Licensure and Examination Statistics, Administrative Penalties, Disciplinary and Non-Disciplinary Action Reports.**

#### Examination Results 1.1.2020 to current date

EPPP Examination: 8 pass, 5 fail

Jurisprudence Examination: 8 pass

#### Statistics:

30 Days Temporary Practice:	5
Provisional Executive Order Licensed Psychologist:	1
Provisionally Licensed Psychologist:	53
Psychological Assistant:	111
Psychologist:	563
Psychologist Associate:	5
Special Psychologist:	6

## **9. ADJOURNMENT**

The following meeting is scheduled for 9.18.20. This will be a in person meeting but could change due to current circumstances. Chiles stated we could possibly do a WebX meeting in September. There being no further business, the Chair, declared the meeting adjourned at 12:58 p.m.

Submitted,

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Mark Lukin, PhD, Secretary  
Board of Psychology

Summarized by: Heidi Weiland, Health Licensing Coordinator, Licensure Unit