

# psychNEWS

The newsletter of the North Carolina Psychology Board



Vol. 14, No. 2

June 2007

## from the CHAIR

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In my last newsletter article I referenced the fact that the Association of State and Provincial Psychology Boards (ASPPB) is focused on ways to better assess competence. While this topic has been an ongoing concern for ASPPB, it has added relevance in light of the American Psychological Association (APA) Council of Representatives' vote in February 2006 to adopt the following statement as APA policy:

The American Psychological Association recommends that for admission to licensure applicants demonstrate that they have completed a sequential, organized, supervised professional experience equivalent to two years of full-time training that can be completed prior or subsequent to the granting of the doctoral degree. For applicants prepared for practice in the health services domain of psychology, one of those two years of supervised professional experience shall be a pre-doctoral internship.

If implemented, this recommendation to modify the sequence of training would effectively eliminate the postdoctoral year of supervised experience as a requirement for independent practice status. For such a shift to occur in any jurisdiction that currently requires a year of postdoctoral supervised experience (which, at present, includes almost every state and Canadian province), its practice act and associated administrative rules would need to be changed.

The American Psychological Association of Graduate Students (APAGS) and the American Psychological Association's Committee on Early Career Psychologists (CECP) strongly support the new APA policy and are requesting that states begin the process to change their licensure laws accordingly. In a model advocacy letter they assert that, as compared to the past, "students are receiving substantially more clinical training prior to their internships."

In August 2005, before the APA decision, the North Carolina Psychology Board completed and submitted an ASPPB survey regarding this matter. At that time, the Board opined that the current requirement for hours of supervised postdoctoral experience in our jurisdiction should not be reduced. The reasons given were as follows:

We know of no evidence that the public in this State would be better, or as well, protected if the requirement was reduced from that which has been determined by the State Legislature to be the minimum requirement for full licensure as a psychologist. While the requirements for post-doctoral supervised experience for licensure may be inconsistent across ASPPB jurisdictions, in most cases this experience at least provides individuals with practical experience which would be impossible to replicate for a practicum student in the university setting who has not even completed all course work for a degree in psychology. The driving force of whether to require postdoctoral supervised experience should be protection of the public and not the debt load for students. However, in this State, the required postdoctoral year can be completed while the individual is employed and receiving compensation for his/her work, and there is also oversight of the practice by a supervisor.

CHAIR

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### BOARD AND STAFF PICTURES

No, Dr. Esse has not lost hair since becoming Board chair! The picture of him you see in this edition of *psychNEWS* was just taken more recently. Pictures of all Board members and staff are now available on the Board's website under the "Board & Staff Members" link on the sidebar.

**CHAIR** continued from front page

The Board also noted that:

In 1993, the [North Carolina] statute was changed to allow for one of the two years of required experience to be completed at the pre-doctoral level, thereby providing for the inclusion of practicum or internship to meet the requirements for one of the two years of supervised experience. Prior to this time, licensees were required to have two years of postdoctoral supervised experience to qualify for permanent licensure.

In October 2005, ASPPB provided a formal response to the APA workgroup addressing this issue by sharing the aggregated results of surveys across the sixty-three member jurisdictions responsible for licensing psychologists throughout the United States and Canada. This document indicated that, "The overwhelming majority of jurisdictions responding to the survey...are opposed to the elimination of a requirement that candidates for licensure have at least one year of post doctoral supervised experience." Opponents to the change in

training sequence ran about three to one over supporters. It is noteworthy that, "even these supporting jurisdictions noted the need for more work to structure the practicum hours that would count for licensure and more progress in adopting a competency model of assessment of readiness to practice." The idea of temporary or provisional licensure (which we already have in North Carolina) was generally supported, but "[t]here was much less support for the notion that students are completing more practicum hours and that these should somehow count towards the required hours of supervised experience for licensure."

The North Carolina Psychological Association has formed a task force to review possible implications of APA's action for our state. I appreciate the fact that they invited Psychology Board representation, and I attended the initial meeting in May as the Board's representative.

While sequence of training in many ways is a guild issue, and a potentially controversial one at that, it is also directly linked to licensure and public protection. Therefore, the Board will continue to follow developments in this area with interest over the course of the coming months and years.



### Welcome Aboard

April G. Everett

*Cardiologist; Cardiac Electrophysiologist; Educator; Researcher; Editor; Inventor; Author. These are just a few words to describe the Board's newest public*

*member, Harry A. Fozzard, M.D.*

Dr. Fozzard was recently appointed by Governor Mike Easley to serve as a public member of the Board. As a 1956 graduate of Washington University Medical School, Dr. Fozzard trained in internal medicine and cardiology at Yale and at Barnes Hospital in St. Louis, Missouri. Recognizing that lethal arrhythmias (disorders of heart rhythm) were as common as cancer, Dr. Fozzard decided to specialize in cardiac electrophysiology, the mechanism, diagnosis, and treatment of arrhythmias. He worked in Switzerland under world-renowned electrophysiologist Silvio Weidmann, where he developed a voltage clamp for cardiac cells. In 1965, Dr. Fozzard established the first coronary care unit at Barnes Hospital, and with the aid of engineering colleagues, he developed a digital computer system for real-time arrhythmia monitoring.

In 1966, Dr. Fozzard began his career with the University of Chicago, where he was responsible for the computer division of its

Myocardial Infarction Research Unit. He led Chicago's cardiology program with Leon Resnekov for ten years before becoming chairman of the University's Pharmacological and Physiological Sciences Department. He has served as chairman of the physiology study section of the National Institutes of Health (NIH), the vice president for research of the American Heart Association (AHA), and the editor-in-chief of *Circulation Research*, the AHA's journal. In 2005, Dr. Fozzard was recognized by the AHA as a Distinguished Scientist whose research is "distinguished by its innovativeness, rigor, sophistication, and broad impact."

Dr. Fozzard's research helped lay the foundation for modern clinical electrophysiology. When he first expressed a desire to specialize in electrophysiology, one professor assured him that this was a "dead end" field and that he was destroying his career. Not discouraged by this sentiment, Dr. Fozzard continued his specialization in electrophysiology. He cherishes being one of the founders of the Heart Rhythm Society, the leading professional group representing cardiac electrophysiology, which now boasts some 8,000 members.

Dr. Fozzard commented that "the young people [he] taught in cardiology and medicine" represent one of his most cherished accomplishments. Dr. Fozzard devoted equal atten-

tion to teaching, research, and practice. Although he is currently retired from teaching and practice, Dr. Fozzard continues his research with the University of Chicago, funded by a grant from the NIH. While Dr. Fozzard's North Carolina home is some 672 miles from the University, he occasionally travels there, but says that he and his colleagues work together primarily via the internet.

In addition to his research, Dr. Fozzard also reaches out to the community at the Free Clinic in Henderson County, a healthcare facility he helped establish which provides services four days each week. Because approximately one-third of the problems seen in the clinic are dental, Dr. Fozzard serves as a manager of the dental clinic.

With research, clinic sessions, and now Psychology Board meetings to attend to, it is hard to imagine that Dr. Fozzard has any time for recreation. However, while living in Chicago, Dr. Fozzard enjoyed racing sailboats on Lake Michigan. Though he no longer races, he still occasionally sails in the Caribbean. He also enjoys *scherenschnitt*, or "scissors cut," the art of making special designs by cutting paper, which he learned while working in Switzerland.

The Board welcomes Dr. Fozzard and looks forward to the unique perspective this accomplished professional brings to Board service.



## Celebrating 30 Years

April G. Everett

*The first laser printer was introduced by IBM, the first 4.6 miles of the Washington Metro Subway System opened, and Apple Computer Company was formed.\* Little did Staff Psychologist Randy Yardley know that 1976 would also be a year of promise for him as, unbeknownst to the young master's graduate, this year would mark the beginning of a thirty-year tenure with the State of North Carolina.*

Source: <<http://en.wikipedia.org/wiki/1976>>

Though not native to North Carolina, Mr. Yardley has clearly established North Carolina as home. Growing up in a military family, he moved to North Carolina while he was in high school. Mr. Yardley later attended UNC-Chapel Hill, where he graduated with a B.S. degree in Industrial Relations in 1971, followed by three years in the U.S. Army. In 1976, he obtained an M.A. degree in School Psychology from East Carolina University.

Fresh out of graduate school, Mr. Yardley accepted a regional school psychologist position which encompassed Davidson County, Thomasville City, and Lexington City Schools. In 1978, he became a school psychologist for Davidson County Schools. Greensboro Public Schools employed him in the position of school psychologist in 1982, and in 1990, he became the coordinator of psychological services for Orange County Schools.

In October 1995, Mr. Yardley became the Psychology Board's fourth full-time staff member and first staff psychologist/investigator, working out of a home office in Greensboro. The position with the Board "came at a very good time" as he had been commuting from Greensboro to Hillsborough for almost five years. Although he enjoyed his position with Orange County Schools, "the driving had become quite exhausting" and with children ages 16, 7, and 4, the flexibility of working from his home office afforded more time to be involved in their lives and to relieve the burden of handling most of the associated responsibility that his wife, Beth Woody, who is also a school psychologist, had been experiencing for several years.

Prior to accepting the position as staff psychologist/investigator, Mr. Yardley served as a Board member. He recalls that "the transition from Board member to staff member was not terribly difficult." Because the staff was so small, the Board historically had been responsible for some of the work that now is assigned almost exclusively to staff. Mr. Yardley had performed such functions as application file reviews, some case investigations, and supervision contract reviews. In that respect, the effect was to move from performing some of the functions for a few days every couple of months, to working all of the time providing those services and taking on some of the work previously done by Board members.

**30 YEARS**

*Continued on Page 7*

## Release of Records

Sondra Panico

*Have you ever found yourself in a situation where you're asked to supply client records and you don't know what to do? Find out what the American Psychological Association's Ethical Principles of Psychologists and Code of Conduct (2002) has to say about release of records.*

An issue which is often raised with Board staff by psychologists is how to respond to a request to release client records, including test data. While the NC Psychology Practice Act does not specifically address this issue, Standard 4.05, Disclosures, of the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 2002) provides as follows:

- (a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient, or another legally authorized person on behalf of the client/patient unless prohibited by law.
- (b) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) protect the client/patient, psychologist, or others from harm; or (4) obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

While Standard 4.05 allows a psychologist to release confidential information when presented with the appropriate consent of a client, it is not mandatory that records be released on all occasions. Standard 4.05 further provides for release of confidential information without client consent when required to do so by law, such as in the case of suspected child abuse, pursuant to G.S. § 7B-301, which requires any person who has cause to suspect that a child is abused or neglected to report to the county department of social services. Further, in the case of a valid court order, a psychologist is required to release confidential records. Standard 4.05 allows for release of records in other situations without client consent; however, if a psychologist cannot obtain the client's consent, the psychologist may wish to proceed cautiously and consult with colleagues or with the Board staff.

In addition, a psychologist who is employed in a mental health facility governed by the North Carolina Mental Health, Developmental Disabilities and Substance Abuse Act, Chapter 122C, is required to comply with all applicable statutes and rules for such facilities. For example, a psychologist who is an employee of a state psychiatric hospital is governed by the confidentiality provisions of G.S. §§ 122C-53 through 122C-56. Some of the exceptions to confidentiality

**RECORDS**

*Continued on Page 7*

## SUPERVISION

**Rule for Psychological Associates Amended**

Susan Loy

*Read more to find out about which activities require supervision and are to be covered during supervision sessions.*

On October 1, 2006, amended Board Rule, 21 NCAC 54 .2006 became effective. This Rule describes the activities that require supervision when performed by Licensed Psychological Associates (LPAs). The statutory authority for the Rule is found in G.S. § 90-270.5(e), which states, in part, that:

Supervision, including the supervision of health services, is required only when a licensed psychological associate engages in: assessment of personality functioning; neuropsychological evaluation; psychotherapy, counseling, and other interventions with clinical populations for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior; and, the use of intrusive, punitive, or experimental procedures, techniques, or measures. . .

It has been my experience, in talking with many LPAs and supervisors of LPAs, that there is sometimes confusion about which activities require supervision. Hopefully, this amended Board Rule will help to clarify some of the confusion, and increase the likelihood of proper adherence to Board supervision requirements. The following comments are offered in order to address the challenges that may arise for licensees in interpreting this Rule.

To understand the Rule, it is important first to be aware that activities requiring supervision must, at minimum, be activities that meet the definition of the practice of psychology under G.S. § 90-270.2(8). Many LPAs hold positions that include duties that are not defined as the practice of psychology, such as administrative or teaching responsibilities. These are activities that do not require supervision under Board Rule.

Upon reviewing Board Rule .2006, you will note that it follows requirements in statute, and that it further defines the activities listed in statute, such as the "assessment of personality functioning" [21 NCAC 54 .2006(a)(1)-(3)]. The activities described in this section of the Rule cover a broad area of the practice of psychology. If an LPA uses "any assessment or evaluative technique which leads to conclusions, inferences, and hypotheses regarding personality functioning," he or she is required to be supervised for those activities. The key phrase in this section is "any assessment or evaluative technique." Therefore, if an LPA collects data on an individual by means of the activities described under .2006(a)(1)-(3), supervision is required. If, however, the collection of data does not lead to conclusions, inferences, and hypotheses regarding personality functioning, supervision is not required. For example, conducting a mental status exam would require supervision because

the exam usually leads to at least some inference regarding an individual's personality functioning. However, if an LPA observes a student in a classroom simply for the purpose of deciding whether the student may need further evaluation, supervision is not required. The LPA observing the student is not making inferences about the student's personality; rather, he or she is making a global observation to determine the student's need for additional assessment. Also not requiring supervision are evaluations that are used strictly for educational purposes and do not involve the interpretation of tests or assessments that yield behavioral or clinical conclusions or hypotheses, which might render them to be considered some manner of assessment of personality functioning.

Board Rule .2006(c) covers another broad area of the practice of psychology. In this section, it is essential to recognize that, if the service provided involves an individual who is a member of a clinical population and the purpose of the activity is to eliminate "symptomatic, maladaptive, or undesired behavior," then supervision is required. Clinical populations are defined under this provision in Rule, which states that, if an individual meets an Axis I or Axis II diagnosis or a V code condition in the then current DSM, whether it is an established diagnosis or an individual simply meets the criteria for such a diagnosis, then that individual is considered to be a member of a clinical population. This section of the Rule also defines "interventions." However, it is important to understand that, in order to require supervision, an intervention must not only involve someone who is a member of a clinical population, but also involve the Rule-driven purpose of the intervention, i.e., to eliminate symptomatic, maladaptive, or undesired behavior. Unless these two criteria are met, supervision is not required. For example, if the LPA is providing career counseling to an individual who is diagnosed as depressed, and that individual is being provided treatment for his or her depression by another practitioner, then supervision for the LPA would not be required for this activity.

Further, Board Rule .2006(b) describes which activities require supervision for LPAs whose duties involve neuropsychological evaluations. Rule .2006(d) describes additional measures not addressed in other provisions in the Rule, such as the use of experimental or punitive techniques. Rule .2006(e) provides clarification for LPAs who provide supervision to other mental health professionals and are engaged in activities that would require supervision, if directly provided by the LPA.

With regard to LPAs who wish to apply for reduced supervision, only hours during which the LPA is engaged in activities requiring supervision, as described in Rule .2006, may be counted toward Board requirements for reduced supervision. In determining the number of hours in which an LPA has engaged in activities requiring supervision, the LPA and supervisor may include not only the LPA's face-to-face time in contact with clients or patients, but also any indirect time providing services associated with that activity, such as interpretation of test data, ▶

writing psychological reports, documenting services in progress notes, consulting with collateral contacts on behalf of patients and clients, and other such activities, insofar as those activities are associated with the services requiring supervision, as described in Rule .2006. Therefore, when an LPA enters into a Supervision Contract with a supervisor, it is imperative that the LPA and the supervisor provide accurate information with regard to the professional responsibilities and functions of the LPA. It is also essential that the hours per month the LPA will be engaged in activities requiring supervision are accurately reflected, so as to be certain that the LPA receives the required supervision as documented on the Supervision Contract. Subsequently, the Supervision Report that a supervisor submits to document the supervision provided to the LPA must reflect an accurate total of the hours that the LPA engaged in activities requiring supervision along with an accurate representation of super-

vision hours received during that reporting period. Consequently, the Supervision Report(s) filed with the Board reflecting the hours in which the LPA engaged in activities requiring supervision should be consistent with the number of hours reported that the LPA submits with an application for reduced supervision.

It is crucial that LPAs and supervisors understand 21 NCAC 54 .2006 in its entirety and are careful not to select certain parts of it without comprehension of the Rule as a whole. Further, it is also important to keep in mind that it is an LPA's overall responsibility, and a requirement under the Code of Conduct and the Ethical Standards, to perform all psychological services in a competent manner. If you have any questions about this Rule as you go through the process of becoming familiar with it in your everyday professional life, please feel free to contact me or Mr. Yardley through the Board office. ■

psychNEWS is available on the Board's website  [www.ncpsychologyboard.org](http://www.ncpsychologyboard.org) under the "News Items" link.

## legalPROCEEDINGS

During the period of time from January 1, 2007, through April 30, 2007, the Board held one administrative hearing. It reviewed and closed nine complaint cases in which it either found no evidence of probable cause of a violation or insufficient evidence to issue a statement of charges; and one case involving a non-psychologist. Further, it took the following disciplinary action:

- Boone, Richard R., Ph.D. - CONSENT ORDER was approved and signed on February 22, 2007. Dr. Boone admits that the described conduct constitutes violations of N.C. Gen. Stat. §§ 90-270.15(a)(6), (a)(10), (a)(11), (a)(20) & (a)(21) of the North Carolina Psychology Practice Act; Standard 1.17(a) of the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 1992); and Standard 3.05(a) of the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 2002). Dr. Boone's license is REVOKED. Further, he must remit \$300.00 in costs.

**NOTE:** License verification is available on the Board's website and includes whether or not Board action has been taken on an individual license.



The list of licensees wishing to receive future newsletters electronically has grown more than 75% since the February publication. Please e-mail April Everett at [april@ncpsychologyboard.org](mailto:april@ncpsychologyboard.org) if you would like to receive future newsletters by e-mail only. The Board—and the forests of North Carolina—sincerely thank you.

### SUMMARY OF FEES

Copy of annual register of licensed psychologists	\$8.00
Copy of 21 NCAC 54 (Board administrative rules)	\$5.00
Renewal of license	\$200.00
Late fee	\$25.00
National examination	\$525.00
State examination	\$100.00
Application	\$100.00
HSP Application	\$50.00
Reinstatement of license	\$100.00
Returned check	\$20.00
Duplicate copy of license	\$25.00
Written license verification (whether submitted individually or on a list)	\$10.00
Copy of file documents (price per page)	\$0.25
Registration of certificate of registration for professional corporation or limited liability company	\$50.00
Renewal of certification of registration for professional corporation or limited liability company	\$25.00



### OFFICERS ELECTED FOR FISCAL YEAR 2007-2008

**AT THE MAY 9-10 BOARD MEETING, DRS. JOHN ESSE AND BELINDA NOVIK WERE RE-ELECTED CHAIR AND VICE CHAIR, RESPECTIVELY, TO SERVE JULY 1, 2007, THROUGH JUNE 30, 2008.**

## Keeping Your Head Out of the Sand

*The following excerpts are taken from an article written by a licensee with whom the Board entered into a Consent Order based on the licensee's failure to respond to Board directives regarding the 2002-2004 continuing education audit. Although the next renewal cycle is not until October 1, 2008, with the licensee's permission, the Board is publishing these excerpts to emphasize the importance of responding promptly and completely to the Board, regardless of the situation.*

Continuing Education (CE) for psychologists is defined by the American Psychological Association as:

An ongoing process consisting of formal learning activities that (1) are relevant to psychological practice, education, and science; (2) enable psychologists to keep pace with emerging issues and technologies; and (3) allow psychologists to maintain, develop, and increase competencies to improve services to the public and enhance contributions to the profession. (APA Council of Representatives, 2000)

License renewal applications are due on October 1 of every even-numbered year. All CE requirements must have been met by September 30. Planning is important; some distance-learning providers can provide rush services for a fee, but a psychologist can wind up in a great deal of trouble by waiting until Labor Day to start thinking about how to fulfill the CE requirements. Some find that their anxiety levels decrease if they simply fulfill the whole requirement at the beginning of the licensure period, file away their documentation, and carry on. Others find that specific meetings are particularly valuable to them and plan their CE around them. By spring of the even-numbered year, and no later, it is definitely time to plan for CE credits that still remain to be attained and to make sure there is a backup plan in place should an activity or symposium become unavailable. Since failure to comply with the CE requirement could result in suspension of licensure, it should take precedence over routine commitments that can be rescheduled.

The Rules of the Board, as set out in the North Carolina Administrative Code, explicitly state that it is the psychologist's responsibility to keep accurate documentation of continuing education activities. Many of us hurry forth from CE activities, stuffing certificates into our bags or folders with barely a thought. It is all too easy to lay aside the course materials, to be filed some time or other, and forget that the certificate actually constitutes a legal document and may be very important at some point.

Think of these records as somewhat akin to tax records...nobody wants, or expects, to be audited by the IRS, but we all know those records had better be in good order if they are required. Many psychologists will pass their entire careers without ever being asked to provide CE documentation. If the Board does demand the documentation of CE, however, it must be provided within 30 days.

A small side note on communication may be in order here: in this era of electronic communication, there are many among us who have automated most of our correspondence and simply do not routinely pay the slightest attention to United States "snail" mail. The Psychology Board, as a legal entity, does all of its official communications by mail, of which hard copies are kept. During a license renewal year, especially, it behooves one to be alert for envelopes bearing the Psychology Board return address!

It is important to know how to deal with the Board appropriately when something goes wrong. One may find oneself short of appropriate credits, or may find that the seminar that was to have been for Category A credit was, in fact, upon reading the fine print, a Category B activity. Worse yet, one may find that one's records of those CE activities a year and a half ago, prior to the office move, are now nowhere to be found.

There have been many psychologists who have suffered serious anxiety symptoms when faced with the task of "fessing up" to the Board. Unfortunately...the longer this state of affairs continues, the worse the violation in the eyes of the Board. The Practice Act specifies that failure to "cooperate with or to respond promptly, completely, and hon-

estly to the Board" [G.S. § 90-270.15.(a)22] is a serious matter that leaves one open to disciplinary action, up to and including revocation of license. One psychologist, upon reading the Practice Act, was quite shaken to realize that the requirements regarding prompt communication with the Board are included in the selfsame portion of the Practice Act as unethical conduct, incompetence and commission of a felony. Anxiety over dealing with the Board in a lesser matter may actually lead to trouble of a far more serious kind than the original issue.

Taking a "head in the sand" stance may result in the psychologist going about in blissful ignorance until receiving the shock of a statement of charges. No matter what else the circumstances may be, the issue can only be made worse by delaying communication with the Board.

Moreover, earlier is better even if there is not, as yet, any violation. In the eyes of the Psychology Board, a deadline is the absolute limit of what is permitted, not a norm, and pushing deadlines brings a psychologist onto the Board's radar screen in a negative way, even when there is no violation of rules. Proactive communication with the Board when one is caught in a push for last-minute compliance is called for and will actually be helpful to the psychologist.

The role of the Psychology Board vis-à-vis psychologists is a neutral one: it is not the Board's role to support and aid psychologists—that is the role of the state and regional Psychology Associations—but neither is it an adversarial role until such time as the psychologist has placed himself or herself in violation of a rule. As a governing and disciplinary body, the Board has no choice but to act in a disciplinary capacity. Early and proactive communication on the part of the psychologist is not only required by the Practice Act, but is likely to minimize or eliminate negative consequences for the psychologist.



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Mr. Yardley believes that his two years serving as a Board member were “very beneficial to establishing [his] understanding of the role and importance of the Board as a regulatory agency and in understanding how the Board operated on a day-to-day basis.”

One of Mr. Yardley’s favorite aspects of being a staff psychologist is being instrumental in providing education to others in some form, whether it is in speaking with a licensee or a potential complainant or some other member of the public about ethical and legal issues,

giving presentations to graduate psychology classes at a number of state universities, or presenting with the Board’s other staff psychologist, Susan Loy, at professional conferences.

After 30 years of service to the State of North Carolina, Mr. Yardley finds himself eligible for retirement. However, because his youngest child will be starting college in the fall of 2009, he contends that, “Unless I win one of the really big payoffs in the state education lottery, I anticipate that retirement will not appear on the horizon very soon.”

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ality contained in those statutes are permissive, while others are mandatory. For instance, G.S. § 122C-53(c) states:

Upon request a client shall have access to confidential information in his client record except information that would be injurious to the client's physical or mental well-being as determined by the attending physician or, if there is none, by the facility director or his designee. If the attending physician or, if there is none, the facility director or his designee has refused to provide confidential information to a client, the client may request that the information be sent to a physician or psychologist of the client's choice, and in this event the information shall be so provided.

For example, if a psychologist is employed in a mental health facility governed by Chapter 122C, the psychologist is required to turn over confidential records to the client, or if the information would be injurious to the client’s physical or mental well-being, then the information is required to be turned over to the client’s physician or psychologist if such is requested. Thus, G.S. § 122C-53 (c) requires release, whereas Standard 4.05 only permits it within the discretion of the psychologist.

The Health Insurance Portability and Accountability Act (HIPAA) may also prohibit some disclosures, or mandate certain procedures to follow before disclosure without consent. For instance, HIPAA permits disclosures, without patient consent, for law enforcement, judicial and administrative proceedings, public health, and health oversight (see 45 CFR § 164.512).

Additionally, psychologists who work in federally funded substance abuse treatment facilities need to be aware of the rigid confidentiality requirements pursuant to federal regulations associated with such facilities.

Standard 9.04 of the *Ethical Principles of Psychologists and Code of Conduct* (American Psychological Association, 2002) deals specifically with the issue of release of test data:

- (a) The term *test data* refers to raw and scaled scores, client/patient responses to test questions or stimuli, and psychologists’ notes and recordings concerning

client/patient statements and behavior during an examination. Those portions of test materials that include client/patient responses are included in the definition of *test data*. Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release. Psychologists may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances release of confidential information under these circumstances is regulated by law.

- (b) In the absence of a client/patient release, psychologists provide test data only as required by law or court order.

Standard 9.04 requires that, when presented with a valid release, a psychologist provides test data to the client or other individual, as specified in the release. There is an exception to releasing the test data, i.e., to protect the client/patient from substantial harm or misuse or misrepresentation of the data or the test. Therefore, it is incumbent on the psychologist to determine, on a case by case basis, whether release of the test data would likely result in substantial harm or misuse or misrepresentation of the data or the test. In addition, as with the release of patient records in general, the information may be regulated by other laws, such as HIPAA or Chapter 122C. Further, a psychologist may also be required to release such data pursuant to a valid Court Order.

In summary, there are numerous considerations for a psychologist when asked to release his/her confidential records or to release test data. The psychologist should make every effort to clarify with the client what is being requested as well as to determine the appropriate recipient of the information. The psychologist must always consider what statutes govern the release and the potential harm to the client if the records are released, in order to reach a decision. The psychologist may wish to seek consultation from colleagues, or an attorney if deciding such matters in a case that involves litigation.

*NOTE: This article was prepared for the North Carolina Psychology Board by Sondra Panico, Assistant Attorney General and Counsel to the Board. It has not been reviewed and approved in accordance with procedures for issuing an Attorney General’s opinion.*

## psychFAQs

I am a Licensed Psychologist, and I am preparing new business cards for my practice. Is it okay for me to list myself as a "Licensed Clinical Psychologist?"

No. The North Carolina Psychology Practice Act provides for generic, but not specialty, licensure. Therefore, under the Act, no licensee holds a license based on his/her specialty, and, as such, it is not appropriate, nor legal, to identify oneself in this manner. A licensee may, however, refer to specialty (clinical, counseling, school, rehabilitation, health, etc.) solely in conjunction with the title, "psychologist," *without* using the modifier, "licensed" (e.g., clinical psychologist). Further, the individual may refer to his/her level of licensure—in this case, Licensed Psychologist—and otherwise include the specialty in clinical psychology separately on a business card or in any other public announcement about the person's practice.

### Who may use the title, "psychologist," in the State of North Carolina?

Under G.S. § 90-270.2(9), anyone who is licensed by the Board, i.e., Licensed Psychologists, Provisional Licensed Psychologists, and Licensed Psychological Associates, may refer to him/herself as a psychologist. Applicants before the Board may also do so. In addition, individuals who hold graduate degrees in psychology and are exempt from licensure, such as university professors teaching psychology, researchers in psychology, industrial/organizational psychologists, and school psychologists employed by boards of education, among others, can properly use the title, "psychologist."



Is there a topic you would like to see addressed in a future edition of the newsletter? If so, please send your suggestions to the Board by e-mail, fax, or paper copy.

## psychCALENDAR

### UPCOMING BOARD MEETINGS:

**JULY 25-27, 2007**

**OCTOBER 3-5, 2007**

**DECEMBER 12-14, 2007**



## Changing your address?

Be sure to let the Board know of any change in your mailing address by faxing the information to 828-265-8611, mailing it to the Board office, or e-mailing it to [ncpsybd@charter.net](mailto:ncpsybd@charter.net). Please include your name, license number, new address, and a contact telephone number. Note that changes of address cannot be done over the telephone.

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