



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

October 29, 2019

VIA ELECTRONIC MAIL

Daniel P. Collins, J.D., Executive Director
North Carolina Psychology Board
895 State Farm Road, Suite 101
Boone, NC 28607

Re: **Proposed Rule Adoptions for 21 NCAC 54.1602 through 21 NCAC 54.2706**

Dear Mr. Collins:

On behalf of the American Psychological Association (APA), I submit our comments on proposed changes to the state's psychology licensing rules. APA is the professional organization representing more than 118,000 members and associates engaged in the practice, research and teaching of psychology. APA works to advance psychology as a science and profession and as a means of promoting health, education and human welfare. We work closely with our state affiliate, the North Carolina Psychological Association, to further those goals in North Carolina.

APA opposes many of the proposed substantive rule changes and urges the Board to withdraw some of its proposed rules for the following reasons as discussed in further detail below:

- (1) The proposed rule changes affecting practice by licensed psychological associates exceed the scope of the statutory authority and therefore, this rulemaking is improper and should be withdrawn. [21 NCAC 54.2006, 21 NCAC 54.2008]
- (2) There is a lack of evidence demonstrating that master's trained licensed psychological associates are competent to practice independently under the same full scope of psychological practice as licensed doctoral-level psychologists. [21 NCAC 54.1802, 21 NCAC 54.1803, 21 NCAC 54.1901]
- (3) It is inappropriate to allow a master's level licensed psychological associate to supervise any non-resident doctoral-level psychologist engaged in temporary practice in North Carolina. [21 NCAC 54.1610, 21 NCAC 54.1703]

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1. Some of the proposed rules are inconsistent with the relevant provisions of the North Carolina Psychology Practice Act and are therefore, invalid.

Pursuant to the principles of administrative law, an agency like the North Carolina Psychology Board is allowed to promulgate rules on those issues where the statute confers authority to do so. If the rules exceed the scope of authority that the legislature has conferred by statute, then the rules are void or invalid. If the rule conflicts with existing law or the legislative intent underlying the law, then the agency has exceeded its authority in creating the administrative rule, and therefore the rule fails.

In this case, the provisions of proposed changes to 21 NCAC 54.2006 and 54.2008 are incompatible with the enabling statute - G.S. Section 90-270.5(e) relating to the practice of licensed psychological associates. These proposed rules seek to establish three tiers of practice for licensed psychological associates – Levels 1 and 2 requiring varying levels of supervision and Level 3 allowing for independent practice with the identical scope of practice as allowed for licensed doctoral-level psychologists. Both proposed rule changes cite G.S. Section 90-270.5(e) as statutory authority.

Specifically, 21 NCAC 54.2006 states that supervision is required for assessment of overall personality functioning; administration of neuropsychological evaluations; psychotherapy, counseling and other interventions with a clinical population¹ by psychological associates “if practicing under Level 1 or Level 2 supervision.” In addition, supervision is required for psychological assessment, psychoanalysis, behavior analysis, biofeedback, hypnosis and the design or clinical oversight of interventions with clinical populations. Implicit in this provision is the allowance that certain licensed psychological associates (Level 3) may engage in any of the above activities without any supervision.

However, G.S. Section 90-270.5(e) clearly states that a “licensed psychological associate shall be supervised by a qualified licensed psychologist.” The provision states that a “licensed psychological associate who provides health services shall be supervised for those activities requiring supervision by a qualified licensed psychologist.” Furthermore, it states that except as otherwise provided, “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.” The provision ends with the instruction that the board “shall adopt rules implementing and defining this provision and... may identify additional activities requiring supervision in order to maintain acceptable standards of practice.” The proposed rules are in direct conflict with G.S. Section 90-270.5(e).

The legislative intent underlying the Psychology Practice Act does not demonstrate any flexibility for the Board to create rules allowing licensed psychological associates to practice

¹ Defined in the same rule to include “persons with discernible mental, behavioral, emotional, psychological or psychiatric disorders as evidenced... by the current Diagnostic and Statistical Manual of Mental Disorders and all persons meeting the criteria for such diagnoses.” [proposed changes omitted]

independently especially when providing health services including personality testing, neuropsychological activities, psychotherapy and other enumerated psychological services. But the proposed rules are incompatible with the specific language of G. S. Section 90-270.5(e) in seeking to remove the supervision requirement and allowing licensed psychological associates to engage independently in the very activities that the statute defines as requiring supervision.

Therefore, these proposed rule provisions exceed the scope of the Board's authority granted by the Psychology Practice Act and are therefore, invalid. We ask that these provisions be withdrawn.

2. There is no evidence demonstrating that master's trained licensed psychological associates have the requisite education, training and competence to practice independently under the same full scope of psychological practice as licensed doctoral-level psychologists.

It is important to note that these proposed changes allowing licensed psychological associates to practice independently do not include any proposed changes to education and training requirements for licensed psychological associates. As proposed, the rules deem licensed psychological associates as sufficiently competent based on their current education and training requirements to provide the full spectrum of psychological interventions independently just like doctorally-trained licensed psychologists.

In comparing 21 NCAC 54.1802 with 21 NCAC 54.1803, the education and training requirements for psychological associates in North Carolina to become licensed providers are far less than what is required for licensed doctoral-level psychologists. In North Carolina, to become licensed as a psychologist, the candidate must have completed a doctoral degree in psychology (4-6 years of graduate training) from a program accredited either by the American Psychological Association or the Canadian Psychological Association and 2 years of supervised clinical experience (minimum of 3000 hours and 1 year must be postdoctoral training) as well as pass the EPPP licensing exam (scaled score of 500) and the jurisprudence exam. In addition to the standard psychology coursework including scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, and specialty electives, the doctoral psychology program must include courses in these specific content areas: biological bases of behavior (e.g., physiological psychology, neuropsychology, psychopharmacology); cognitive-affective bases of behavior; social bases of behavior; and individual differences. The candidate must also complete supervised clinical training that includes practicum, internship, field experiences or laboratory training as well as the thesis/dissertation.

However, a current candidate for licensure as a psychological associate must have completed a graduate degree primarily psychological in nature and 500 hours of supervised training under the supervision of a licensed psychologist as well as passing the EPPP and jurisprudence exam. The program shall include coursework in academic psychology; statistics and research design; scientific and professional ethics and standards; and electives in a psychology specialty area. There is no mention of coursework in biological, cognitive-affective or social bases in behavior. While master's-level psychology programs may cover core coursework for clinical psychology,

the training cannot sufficiently provide the depth of training required for specialty areas of psychological practice.

The newly proposed rule changes (see 21 NCAC 54.1901) also would establish different passing scores for the EPPP for licensed psychological associates. If the candidate achieves a scaled score of 440, he/she would practice under supervision. If the candidate seeks independent practice as a licensed psychological associate, he/she must meet the scaled score of 500. The proposed rule changes offer yet another pathway to independent practice – if the candidate is unable to meet the scaled score of 500 but practices for at least 5 years under supervision, then he/she may practice without supervision.

There is no evidence offered validating that psychological associates have the appropriate education, training and skills to practice in any specialty areas within psychological practice, requiring specific expertise such as neuropsychology, geropsychology, rehabilitation psychology, child and adolescent psychology as compared to psychologists. Yet nothing in the proposed rules prevents a psychological associate from engaging in specialty practice so long as he/she has either achieved a scaled score of 500 on the EPPP or the lower score of 440 and completed 5 years of supervised practice. Yet, the Board proposes to allow licensed psychological associate to engage in the full range of professional psychological practice as permitted for doctoral level psychologists. The reality is that the EPPP is a knowledge-based test, not a test of clinical skills. As such, test scores cannot confirm that an individual is competent for independent practice. Rather, EPPP test scores must be considered within the context with higher levels of education and extensive supervised training in psychology as offered in doctoral psychology programs.

APA has affirmed that the doctorate is the minimum educational requirement for entry into professional practice as a psychologist, acknowledging that postdoctoral education and training is an important component of a psychologist's ongoing obligation to engage in continuing professional development throughout his or her professional career. Most US states only allow doctoral-trained individuals (who meet the specified licensing criteria defined by state law) to practice psychology. While a handful of states may allow master's level individuals to be licensed under the psychology licensing laws, most of those states stipulate a narrower scope of practice and/or mandate supervision for those who do not have a doctoral degree.

Nonetheless, in these proposed rule changes, North Carolina seeks to lower the requirements for the practice of psychology to a master's level discipline despite the fact that nearly all other US jurisdictions as well as the US federal system require the doctorate as the standard for the independent practice of psychology.

We strongly urge that all of the provisions related to granting independent practice for psychological associates be withdrawn.

- (3) It is inappropriate to allow a master's-level licensed psychological associate to supervise any non-resident doctoral-level psychologist engaged in temporary practice in North Carolina.**

APA strenuously objects to the fact that a master's level psychological associate may be allowed to supervise an out-of-state doctoral-level psychologist who may be practicing temporarily within the state of North Carolina as spelled out in 21 NCAC 54.1610. While it may be appropriate to require that an out-of-state psychologist formally collaborate or consult with a North Carolina licensed psychologist, it is inappropriate to allow the out-of-state licensed psychologist to be under the oversight of a master's level provider. For the same reasons stated above, a psychological associate's education and training do not have the same depth of training as a psychologist. This is especially true of psychologists practicing in specialty areas such as neuropsychology, health psychology, or rehabilitation psychology, where the psychologist makes very sensitive and specialized decisions such as determining where in the brain a stroke occurred or whether a patient is suitable for an invasive medical procedure like heart transplantation.

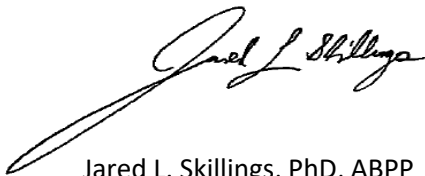
It is also worth noting that 21 NCAC 54.1703(2) which outlines the requirements for an out-of-state licensed psychologist to obtain either a 5-day or 30-day temporary license, does not mandate supervision. Rather, it states that the applicant psychologist should include the "name of the North Carolina psychologist(s) with whom you will be associating, if applicable" and "whether required to be supervised for practice in the jurisdiction in which the applicant is licensed." There is no requirement that supervision is required and no mention of psychological associates.

Therefore, we ask that 21 NCAC 54.1610 be revised, removing the reference to psychological associates as eligible supervisors, to be consistent with 21 NCAC 54.1703.

Thank you for the opportunity to provide comments on these proposed rule changes. For the aforementioned reasons, the proposed rules exceed the statutory authority granted by the North Carolina legislature and therefore are void. The proposed rules would also put the public at increased risk of harm, and we ask that it be immediately withdrawn.

If you have any questions or need further information, please contact Deborah Baker, JD, Director of Legal & Regulatory Policy by telephone at (202) 336-5886 or by email at dbaker@apa.org.

Cordially,

A handwritten signature in black ink, reading "Jared L. Skillings". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Jared L. Skillings, PhD, ABPP
Chief of Professional Practice, American Psychological Association
Board-certified in Clinical Psychology, Clinical Health Psychology, and Behavioral & Cognitive Psychology

cc: North Carolina Psychological Association