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Daniel P. Collins, J. D.
Executive Director
North Carolina Psychology Board
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Re: proposed supervision rules

Dear Dan,

I am writing to you as a friend of the North Carolina Psychology Board and as a defender of the North Carolina Psychology Practice Act. My friendship with the Board dates back over 35 years, and my activities to defend the integrity of Act date from the two years that I spent as chair of a Task Force which rewrote the Act which now governs the practice of psychology in North Carolina. With the bill in draft form, I spent many months educating the psychology community and then the committees of the legislature prior to its being enacted into law. NCPA's newsletters document all of these activities over the course of some dozen publications. Following its adoption, I wrote draft rules for the Board for two years which would serve to implement the many provisions of the new Act.

Let me be self-indulgent for another paragraph or two. In order to assure my credibility, I first want to mention many of the roles I have played. I served two three-year terms on the Board, which included four years as Chair and one as Vice Chair. During this period I successfully shepherded two amendments to the Act through the General Assembly, which is no mean feat with any legislature. As chair, I successfully abolished the highly time-consuming oral examination (administered to all who psychologists who entered NC from another state or province) and substituted the written state examination. I personally drafted all 50 items of the state exam, plus a few spares. I facilitated the Board's adoption of a statistically defensible method of establishing pass points for the national written exam (the Angoff Procedure). I created the newsletter for the Psychology Board, personally writing the first three newsletters. Aside from the above, after serving on the Board, I served as an investigator for the Board, crafting the summaries after investigating complaints. At various points, I served as the Board's expert, providing testimony or behind-the-scenes consultation, and drafting statements of charges. In this and other roles I worked closely with at least three of the attorneys assigned to the Board since its inception. I personally drafted interpretations of the statute and rules which accompanied applications for licensure, and I collaborated in the design of all forms adopted by the Board. During all of these years, I acted as an informal liaison between the Board and NCPA and the psychological community. As you know, more recently I have served as a supervisor for the Board, and in the role of tutor in keeping with consent orders issued by the Board with about 20 to 30 North Carolina psychologists.

In my final months as Board Chair, I presided over a formal hearing in which one Dr. White was charged with multiple ethics violations. The Board revoked his license, and Dr. White appealed and

appealed, and in a devastating decision the NC Court of Appeals found that APA's Ethics Code (incorporated by reference) was "unconstitutionally vague" for the purpose of disciplining psychologists. The NC Supreme Court declined to hear the case, and so the Board was left without a statutory basis for determining ethics violations. Meanwhile, NCPA was scarcely aware of the crisis. Given that I had already crafted statute (child abuse and neglect, rights of minor patients), and was the psychologist most familiar with the Act, I assumed leadership in addressing this grave hiatus in statutory authority.

I formed a task force and for two years I scoured the statutes of all North American jurisdictions in search of commendable features to be incorporated in a new statute for North Carolina. With no ethics code, we had to anticipate what APA might build into a revision of its ethics code while we created a separate North Carolina ethics code for psychology practitioners. Looking back we achieved remarkable congruence, and I broke new ground by incorporating a standard of care criterion for adjudicating ethics complaints relative to competence and the provision of patient/client diagnosis and treatment. I don't know whether this feature has since been adopted in other states, but it has played an important role in adjudicating complaints in North Carolina. Further, by creating Health Services Provider certification we plugged a major hole in North Carolina's generic licensure (if this is not clear to the reader, feel free to inquire). I also vastly expanded the numbers of options available to the Board in ordering remedies for ethics violations and substandard practice. I put in place statutory prescriptions for documentation, provided records retention mandates, required "summary content" documentation (my term) and asserted jurisdiction over "ancillary services" (also my term). Anticipating that the need for reciprocity among states would emerge with greater urgency, we attempted to provide statutory language which would be facilitative in the future. In my search, I found that one state authorized its board to charge a fee for processing ethics complaints. Knowing that the legislature zealously guards fees, I doubted that this provision would survive bill scrutiny. But, it did, and our bill was enacted in its totality and went into effect in 1994. I was pleased when the CEO of APA's Practice Directorate called the new North Carolina Psychology Practice Act "the most comprehensive in North America."

Hopefully, having provided a history lesson and established some credibility, I want to comment on the proposed rules regarding the supervision of LPAs. Speaking without a citation, my understanding is that administrative rules serve to **implement** statute. On countless occasions the verb **implement** has been uttered within my hearing. The Psychology Practice Act mandates supervision of LPAs. The proposed rules establish a mechanism for the termination of all supervision. Thus, they subvert the will of the legislature in my opinion by abolishing the very supervision that the statute mandates. Therefore, in defense of the integrity of the Psychology Practice Act, I oppose the adoption of the proposed rules.

Sincerely,

William V. Burlingame, Ph.D.,
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