



**North Carolina Association of Professional Psychologists’ Response to North Carolina
Psychological Association’s Expanded Response in June of 2019
to Proposed Rule Changes for LPAs
November 04, 2019**

The North Carolina Association of Professional Psychologists (hereinafter “NCAPP”) responds to the North Carolina Psychological Association’s (hereinafter “NCPA”) Expanded Response in June of 2019 to Proposed Rule Changes for LPAs (hereinafter “Expanded Response”) as follows:

In March 2019, the NCPA proposed that the Petitioners withdraw their Petition for a Rule Change to End Career-Long Supervision of LPAs in North Carolina set forth in August of 2018 (hereinafter “Petition”) in order to, in the words of NCPA President Tonya Armstrong, “more collaboratively achieve the best outcomes for LPAs across the state including the development of ‘a process acceptable to both groups including a path toward independent practice.’” The NCPA’s proposal came following its latest position on LPA independence in 2013, which came with two conditions in order to move forward: (1) LPAs would be stripped of the title “psychologist”, and (2) a sunset provision be included, which would establish a date after which no new LPA licenses would be issued. Based on the previous position asserted by the NCPA, without formal acknowledgement or departure from the previous position, the Petitioners and

NCAPP declined to work collaboratively with NCPA, as such conditions would harm or end the practice of psychology by masters-level practitioners in North Carolina.

Furthermore, the NCPA's proposal for collaboration was made before its June 7, 2019, Expanded Response, which vigorously argued against independent practice for LPAs for reasons of "quality assurance and protection of the public." The later position of the NCPA is at odds with its earlier position and suggests an insincerity relative to the earlier proposal to work with the Petitioners. Additionally, the most recent position of the NCPA is altogether lacking in empirical data. Not one study has been referenced by NCPA to its Expanded Response to support the allegations that independent practice of LPAs endangers the public.

Statutory Authority of the NCPB to Eliminate Lifetime Supervision

NCAPP turns to the argument of NCPA that the North Carolina Psychology Board (hereinafter "NCPB") is precluded by statute from ending career-long supervision of LPAs. The Assistant Attorney General providing legal counsel to the Board, Sondra Panico, has already shared her assessment -- which is that the NCPB has authority to end career-long supervision through the proposed rule changes. This fact is noted in the May 8, 2019, entry of the NCPA's *Timeline of Events* provided within the NCPA Expanded Response distributed June of 2019.

N.C. Gen. Stat. § 90-270.5(e) states that a licensed psychological associate shall be supervised "in accordance with Board rules specifying the format, setting, content, time frame, amounts of supervision..." (Emphasis added). Nowhere does the Practice Act require career-long supervision, but rather that supervision be determined by NCPB rules.

The Practice Act only demands that, if an LPA is subject to supervision requirements, he or she must comply with those. The NCPB is explicitly empowered to set the time frame for supervision, and implicit in that is the authority to set a time at which supervision concludes for

an LPA. The NCPA thus misconstrues to its own advantage both the power granted to the NCPB and the plain language of the Practice Act in an effort to limit competition from masters-level psychologists.

The General Assembly gave the NCPB the power to determine by its rules the extent to which psychological associates are to be supervised by licensed psychologists, specifically including the “time frame” during which such supervision is required. As the North Carolina Supreme Court recently determined in considering the power of the Board of Physical Therapy Examiners, such language “vests the [Psychology] Board with broad authority to regulate the practice of [Psychology] and adopt administrative rules and regulations governing the profession.” *North Carolina Acupuncture Licensing Board v. North Carolina Board of Physical Therapy Examiners*, ___ N.C. ___, 821 S.E.2d 376, 381 (2018). Although not binding on the courts, the courts give “great weight to an agency’s interpretation of a statute it is charged with administering.” (Citation omitted). *Id.* At 379.

Quality and Competence of LPAs

Ten states have eliminated career-long supervision of masters-level psychologists. These states outlined in the Petition include Alaska, Arkansas, Kansas, Kentucky, Oklahoma, Oregon, Tennessee, Vermont, and West Virginia (See Ex. 6 in the Petition). Recently, the state of Texas has also eliminated the career-long supervision of LPAs. There are at least four allied mental health disciplines currently licensed in North Carolina. Professional counselors, clinical addiction specialists, clinical social workers, and marriage and family therapists may all practice independently with a master’s degree. LPAs are the only mental health practitioners in North Carolina subject to the requirement of career-long supervision. We live in a political climate that

encourages access to mental health care and that objective is furthered by the proposed rule change of the NCPB.

In 2012, NCPA leadership members and the Executive Committee of NCAPP formed a NCPA/NCAPP Workgroup which addressed the requirement of career-long supervision for LPAs. The Workgroup provided the Boards of NCPA and NCAPP with data indicating that there was no increased risk of harm to the public when LPAs obtained independent licensure after three years of supervision. This determination is more fully discussed in Section III of the Petition and further supported by multiple articles provided therein. In the approximately fourteen months since the Petition was filed, the NCPA has not provided a single study or piece of data contradicting the conclusion of the Workgroup. The NCPA instead rests on bare assertions and conclusory statements. With no evidence relied upon by NCPA, there is nothing further for the Petitioners to rebut on this point.¹

Cost to LPAs and the North Carolina Public of Career-Long Supervision

The NCPA misleadingly argues that no economic harm is done to LPAs by career-long supervision. By way of illustration, an LPA at Supervision Level III must have one hour of supervision per month. Each hour of supervision is taxed to the LPA twice – once in the amount paid to the supervising doctoral-level psychologist and once in the amount of lost fees to the LPA during the hour of supervision. For supervision that costs \$100 per hour, an LPA at Supervision Level III incurs \$1,200 in supervision fees per year and \$1,200 in lost fees due to supervision per year, for a total loss of \$2,400 per year. For an LPA who practices for thirty

¹ The accreditation argument made by NCPA is unpersuasive. Graduates of an unaccredited doctoral-level program may practice independently – and if no safeguards are needed for a doctoral-level program, there is no justification for imposing a higher standard on masters-level programs. Further, NCPA ignores the minimum educational requirements promulgated by the NCPB which render accreditation irrelevant.

years, this is a career loss of approximately \$72,000. For many LPAs, this exceeds an entire year's salary.

The harm of career-long supervision is felt by more than just LPAs. It extends to the citizens of North Carolina who need mental health treatment. Sections V, VI, and VII of the Petition addresses this in detail. In brief though, because LPAs have a restricted license, they are only eligible to participate on two insurance panels – Blue Cross Blue Shield State Health Plan and Medicaid. To those individuals in need of mental health treatment who have limited resources or another health insurance carrier, treatment by an LPA is unavailable for all practical purposes.

This has three important implications. First, services of LPAs are typically 25% less costly than those of doctoral-level psychologists. This makes treatment from an LPA more affordable – but currently, only for those who have BCBS or Medicaid. Second, rural areas in North Carolina continue to be underserved by doctoral-level psychologists. In 20 rural counties in North Carolina, there is not a doctoral-level psychologist available. There is however, a masters-level psychologist available. The LPA license is invaluable for the services that LPAs provide in underserved communities. Third, with no change in career-long supervision, there is little incentive for individuals to pursue an LPA license when other masters-level mental health care licenses offer independent licensure.

Conclusion

The data provided by the Petitioners to the NCPB in support of their request to end career-long supervision of psychological associates provides overwhelming evidence that career-long supervision does not benefit the public nor the profession. The General Assembly has given the Board the rule-making authority to determine the extent of the supervision required. NCAPP

fully supports the Board's proposed rule change 21 NCAC 54. 2008(h) that would allow LPAs to practice independently with an unrestricted license after 3-5 years of supervised practice and satisfactory supervision reports.

Respectfully Submitted,

North Carolina Association of Professional Psychologists – NCAPP

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